

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.268 of 2016

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Md. Sadique Zafar, son of Late Md. Israil, resident of Mohalla –
Alamganj, P.S. – Alamganj, District – Patna, at present working as
Clerk, M.V.I. Purnea.

.... Petitioner

Versus

1. The State of Bihar
2. The State Transport Commissioner, Nirman Bhawan, Bailey Road,
Patna.
3. the Joint Commissioner (Transport), Nirman Bhawan, Bailey Road,
Patna.
4. The Secretary, Personnel and Administrative Reforms Department,
Govt. of Bihar, Main Secretariat, Patna.
5. The Secretary, Bihar Karamchari Chayan Aayog, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner	:	Mr. Mahesh Narayan Parbat, Sr. Advocate Mr. Satya Ranjan Sinha, Advocate
For the Respondents	:	None.

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH

And

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)

Date: 16-09-2016

We have heard Sri Mahesh Narayan Parbat,
learned Senior Counsel at length in respect of this review
application.

The review petitioner was the writ petitioner
whose writ petition being in the Intra-Court Appeal was
ordered to be dismissed. We clearly held in paragraph 6
which reads as such:

*“Now, it would be too late in the day for
the writ-petitioner to urge that the*



selection process to be now carried out after 2003 Rules, ignoring the same, and grant him promotion to the post that was vacant, due to be filled up prior to 2003. Even though the petitioner had a right at that material time, he never asserted his right. The Rules came into being, changing the rights and creating a cadre. That cadre would now be governed by the Cadre Rules. Unless it provides and protects the right that had accrued to a person prior to Cadre Rules, the Cadre Rules would not protect the right of such persons. Thus, by delay in moving the Court to assert the right, the right has got defeated by virtue of the Rules coming into being in the Enforcement Wing of the Transport Department. We, therefore, find that the order of the learned Single Judge is not sustainable on both the aforesaid grounds.”

Sri Mahesh Narayan Parbat, learned Senior Counsel, urges that after the selection process, which was initiated in the year 1997 was over, and up to 2003, there were further vacancies. He was in the panel of 1997. He would, thus be entitled to be considered even after 2003 Rules came into being. We have already noticed these contentions while allowing the Intra-Court Appeal. We may only reiterate again that, so far as the panel of 1997 was concerned, the exercise being over, the panel loses its life.

In the appeal, our finding, as quoted above,

clearly gives the consideration why we felt that even though the writ petitioner/review petitioner could have held the semblance of a right prior to 2003, not having asserted the same, and now the cadre having become a close door cadre, wherein, the recruitment to the cadre was only by way of direct recruitment, and, not by way of promotion, he could not assert his right which was lost by passage of time.

In review jurisdiction, we are not required to consider the merits all over again. If the review petitioner is aggrieved by our order, as passed in appeal, his remedy lay elsewhere.

For the reasons aforesaid, we find no merit in this review application. It is dismissed, accordingly.

(Navaniti Prasad Singh, J.)

(Nilu Agrawal, J.)

Rajeev/-

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