

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15760 of 2011

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Raj Kumar Jha S/O Late Ghutar Jha, resident of Village-Gopalpur, P.S.-
Moro, District-Darbhanga.

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Old Secretariat, Patna.
2. The Director, Revenue and Land Reforms Department, Old Secretariat, Patna.
3. The Collector-cum-District Magistrate, Revenue and Land Reforms Department, Saharsa
4. The Collector cum District Magistrate, Revenue and Land Reforms Department, Gaya.
5. Sri Ram Krishna Choudhary, son of not known, Additional District Land Acquisition Officer, District-Aurangabad.
6. Sri Sita Ram Jha, son of not known, at present posted as Additional District Land Acquisition Officer, District-Buxar.
7. Md. Saiyed Gulam Mohammad, son of not known, at present posted as Assistant Director, Agriculture Department, Patna.
8. Sri Naga Ram, son of not known, at present posted as Additional District Land Acquisition Officer, Sitamarhi.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Priyank Deepak
For the Respondent/s : Mr. AC to GP-23

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

4 12-04-2016 Heard Sri Priyank Deepak, learned counsel for the
petitioner and learned AC to GP-23.

The petitioner, invoking writ jurisdiction under Article-226 of the Constitution of India, has prayed for quashing of an order, contained in Memo No.138 (3) dated 15.06.2011 issued by the Principal Secretary, Revenue and Land Reforms Department (vide Annexure-1 to the writ petition), whereby the



claim of the petitioner for grant of promotion to the post of D.C.L.R. from the Assistant Settlement Officer has been rejected. Earlier the petitioner had filed a writ petition vide C.W.J.C.No.3441 of 2011. However, keeping in view the fact that the representation of the petitioner regarding his claim for promotion was pending before the Principal Secretary, the writ petition stood disposed of with a direction to the Principal Secretary to consider the representation of the petitioner and dispose it of in accordance with law.

The case of the petitioner is that he was earlier functioning as Circle Officer. Thereafter, he was promoted as Assistant Settlement Officer. It has been claimed that though the petitioner was promoted as Assistant Settlement Officer, he was not relieved by his controlling authority and, as such, the delay occurred in joining the new post of Assistant Settlement Officer. However, after the order of the court, the representation of the petitioner was considered and claim of the petitioner for promotion has been rejected on the ground that he has not completed one year of service in the capacity of Assistant Settlement Officer.

Learned counsel for the petitioner submits that it was not laches on the part of the petitioner, but due to laches on the

part of the Respondents, the petitioner was restrained from completing one year of service in the capacity of Assistant Settlement Officer and, as such, his case was required to be considered in right perspective. He submits that the order impugned is liable to be set aside.

Learned counsel appearing on behalf of the Respondents submits that the criteria for consideration of promotion from the post of Assistant Settlement Officer to D.C.L.R. was completion of one year of service as Assistant Settlement Officer. Since on the date of meeting of the Departmental Promotion Committee, the petitioner had not completed one year of service in the capacity of Assistant Settlement Officer, he was not entitled to be considered for promotion to the post of D.C.L.R. and, as such, the claim of the petitioner has rightly been turned down by the impugned order. Learned State Counsel, by way of referring to the statement made in paragraph-7 of the counter affidavit, further submits that the claim of the petitioner has rightly been rejected firstly on the ground that he had not completed one year of service, which was condition precedent as per Government Notification no.2129 dated 19.06.2007. It has further been argued by way of referring to paragraph-7 of the counter affidavit that the petitioner had already

superannuated on 28.02.2011 i.e. the date on which the writ petition was disposed of and, as such, there is no question for considering the case of the petitioner for granting promotion with retrospective effect.

Learned counsel for the petitioner tried to persuade the Court by way referring to the averment made in reply to the counter affidavit that the State Government in other Departments had given relaxation. However, on going through Annexure-13 series to the rejoinder of the counter affidavit, I do not find any ground to entertain the submission of learned counsel for the petitioner regarding grant of such relaxation in the department, on which the petitioner was claiming for promotion.

In view of facts and circumstances, particularly the fact that on the date of meeting of the departmental promotion committee, the petitioner was not found eligible for such consideration. I do not find any defect in the impugned order i.e. Annexure-1 to the writ petition.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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