

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12533 of 2013

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Shailendra Kumar Srivastava Son of Late Hoshela Prasad, resident of village Mamarkha, P.S. - Malahi Bazar, District - East Champaran at Motihari.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Road Construction Department
2. The Chief Engineer, Central Design Organization, Road Construction Department, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. P.N. Pathak, Adv.

For the Respondent/s : Mr. S.S. Pd. Sinha, AC to GA-6

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 08-11-2016

In the present case, the petitioner is claiming the benefit of Laboratory Assistant on the ground that one junior to him, namely, Md. Iqwal was also Laboratory Khalasi having been granted the benefit of Laboratory Assistant with effect from 28.08.2012 and from the fact it appears that the petitioner was appointed as Khalasi and was regularised in service, vide Memo no. 436 dated 10.04.1981.

It has been averred in the reply counter affidavit that some of the persons, whose names were standing at serial nos. 435, 436 and 441 having been appointed, though they passed the Matric examination prior to 1986, had been granted the promotion to the post of Laboratory Assistant. In the gradation list dated 29/04/1991, the name of the petitioner is standing at serial no. 430 but has not been

given the benefit.

In the counter affidavit, it has been claimed that 29 Laboratory Khalasi were granted the benefit of promotion to the post of Laboratory Assistant. When the petitioner was not granted the same benefit, he filed a representation before the Chief Engineer, Central Design Organisation, Bihar, Patna on 6.5.1999. The Chief Engineer, vide letter dated 603 dated 7.7.2009, asked to furnish the Matric Certificate by 10.08.1999. It has been claimed that one Md. Iqwal, who was Laboratory Khalasi, has been regularised in service on 23.12.1999 much after regularization of the petitioner, has been given the promotion to the post of Laboratory Khalasi.

In the counter affidavit, plea has been taken that the necessary qualification for the post of Laboratory Khalasi, is Matriculation which the petitioner was not holding and as such, he could not have been given the benefit of promotion to the post of Laboratory Assistant.

The counsel for the petitioner submits that the petitioner was holding the qualification of Matric as he has passed matric examination in the year 1990, his certificate was verified in the year 1992 and so much so that number of persons junior to him, have been given the benefit of promotion and one Syed Md. Iqwal has also been granted the benefit of promotion in pursuance of order dated

27.2.2012 passed by this Court in C.W.J.C. No. 15861 of 2005. It is the stand of the State that all the posts of Laboratory Khalasi have been abolished in the year 1999 and now the petitioner cannot be granted the benefit of Laboratory Khalasi but the benefit of the same has been conferred upon Syed Md. Iqwal.

In such view of the matter, if Syed Md. Iqwal has been granted the benefit of Laboratory Khalasi in pursuance of order passed by this Court in CWJC No. 15861 of 2005 then certainly the petitioner is also entitled to the same benefit in terms of aforesaid order.

In such view of the matter, this Court directs the respondent authority to give the benefit to the petitioner, as like, Syed Md. Iqwal, who has been given benefit in pursuance of order of this Court passed in CWJC No. 15861 of 2005.

With the above observation/direction, this petition is allowed to the aforesaid extent.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	16/11/2016
Transmission Date	