

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14197 of 2013

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Md. Nazim Son of Abdul Hamid, resident of village - Asgeon, P.O. Milky Chak,
Police Station - Bahadurpur, District - Darbhanga at present posted as a Clerk at
Benipur Anchal, District – Darbhanga.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna
2. The Principal Secretary, Finance Department, Bihar, Patna
3. The State of Bihar through Director Treasury and Accountant-cum-Special
Secretary, Treasury and Accountant Directorate, Finance Department
4. The Deputy Secretary, Finance Department Treasury and Account Directorate,
Finance Department of Bihar, Patna
5. The District Treasury Officer, Darbhanga
6. The District Magistrate-cum-Collector, Darbhanga
7. The Deputy Collector, Establishment, Darbhanga
8. The Circle Officer Benipur Anchal, District - Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajendra Prasad, Sr. Adv.
Mr. Raj Kumar Mishra, Adv.

For the Respondent/s : Mr. Rajiv Roy, GP-1 and Arun Kumar, AC to GP-1

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 16-09-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

In this case, the petitioner is seeking relief of promotion
to the post of Clerk as he should have been promoted with effect from
13th May 1981, but has wrongly been given the benefit of promotion
with effect from 20th August 2012.

The petitioner was appointed on Class-IV post in the
Collectorate, Darbhanga. For certain period, he was deputed to the

Treasury, Darbhanga and there he discharged the duty of the Clerk satisfactorily.

Looking to his best performance and the assistance which he had given while discharging the duty at the Collectorate, the Collector, Darbhanga recommended that he is a fit person should be promoted to the post of Clerk, but even after the repeated recommendation of the Collector, he was not promoted which compelled him to approach this Court in C.W.J.C. No. 12215 of 2000 and the Court directed to consider the case of the petitioner and take decision within three months. When nothing moved, the petitioner was compelled to approach this Court in M.J.C. No. 1524 of 2012, feeling heat of the contempt proceeding, the petitioner and two others were promoted to the post of Clerk.

Grievance has been raised by the petitioner that 12 persons, who were junior to him, have been promoted from the earlier date and he has wrongly been deprived of the same.

In the supplementary counter affidavit, the State has taken plea that the persons, who appeared in the limited examination and succeeded in that, were promoted earlier to this petitioner and the petitioner was not given such benefit, as he had not appeared in the said examination.

Today, the counsel for the petitioner has filed a

supplementary affidavit where the plea has been taken that he was not allowed to appear in the limited examination. In the writ petition or the supplementary affidavit, such plea has not been taken by the petitioner appears to be after thought. These are the disputed question of facts cannot be looked into in the present proceeding.

In such view of the matter, let the petitioner approach the Commissioner, Tirhut Division, Muzaffarpur with a detailed fact, who will examine the case of the petitioner, call for the concerned records and pass a reasoned order in accordance with law.

It goes without saying that the petitioner should be given the opportunity of hearing, if so advised, he would be at liberty to be represented through his Advocate.

With the above observation/direction, this petition is disposed of.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	20.09.2016
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