

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11898 of 2013

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1. Gopal Singh S/O Late Keshwar Singh Resident Of Village- Nibikala, P.S- Bhabhua, District- Kaimur.

.... Petitioner/s

Versus

1. The State Of Bihar, Through The Principal Secretary, Department Of Panchayati Raj, Main Secretariat, Patna.
2. Zila Parishad, Kaimur (Bhabhua), Through The Chairman Of The Said Zila Parishad, Kaimur (Bhabhua)
3. Deputy Development Commissioner- Cum- Chief Executive Officer, Zila Parishad, Kaimur, (Bhabhua)
4. Jay Narayan Dubey S/O Sri Kanhaiya Dubey Presently Functioning As Officiating Head Clerk, Zila Parishad, Kaimur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kishore Kumar Thakur, Advocate
For the State : Mr. Kinker Kumar, SC 9
Mr. Rakesh Kumar Sharma, AC to SC 9
For respondents 2 & 3 : Mr Awadhesh Kumar, Advocate.
For Respondent no.4 : Mr. Parmatma Singh, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 28-11-2016

Heard the parties.

In the present writ petition, petitioner is challenging the order as contained in Memo No.354 dated 9.10.2012 issued by the Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Kaumur (Bhabhua) by which one Jay Narayan Dubey, respondent no.4 has been made In-charge of Head Clerk which is cause of heart burning of the petitioner.

Learned counsel for the petitioner submits that respondent no.4 is a Stenographer and the post of Head Clerk is not in the

line of promotion. Present petitioner is senior most assistant and after superannuation of Head Clerk he was to be appointed as In-charge Head Clerk and wrongly respondent no.4 has appointed.

Learned counsel for the Zila Parishad submits that the action of Zila Parishad was quite correct as respondent no.4 was senior most but has not contradicted the statement of the petitioner that Stenographer is not in the line of promotion of Head Clerk.

Learned counsel for respondent no.4 submits that petitioner has been discharging the clerical duty since 2000 and has already acquired sufficient experience in that area, so much so he is senior to the petitioner. Looking to the seniority and efficiency he has been made In-charge Head Assistant but one thing is that the respondent no. 4 has been appointed as a Stenographer and Stenographer is a full time job, cannot be asked to be discharged the duty of clerical job and that job is also a full time job. The person who is appointed as Stenographer cannot be made as In-charge Head Clerk as he does not fall in the line of promotion.

In such circumstances, Stenographer cannot either be made In-charge Head Clerk nor can be promoted on substantive basis

on the post of Head Clerk.

In such view of the matter, order dated 9.10.2012 is set aside but it is made clear that respondent no.4 will not be asked to discharge the clerical job or to work under his junior in any cadre.

With the aforesaid observation this writ petition is allowed.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
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