

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.543 of 2014

Arising out of

Civil Writ Jurisdiction Case No. 651 of 2013

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Hemant Kumar Sinha Son of Late Satyadeo Narayan Sinha, Mohalla - Saristabad
Purbi Tola, P.S. Gardanibagh, District - Patna

.... Appellant/s

Versus

1. The State of Bihar through the Secretary State Language Department (Rajbhasa)
Govt. of Bihar
2. The Director, State Language Department (Rajbhasa) Govt. of Bihar
3. Dy. Secretary Rajbhasa Department, Old Secretariat, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Alok Kumar Chaudhary, Advocate.

For the Respondent/s : Mr. Chandra Shechar Singh, AC to GA-10.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 08-09-2016

The challenge in the present Letters Patent Appeal is to
an order passed by the learned Single Bench on 14.01.2013 whereby
the challenge to the order dated 07.09.2011 was found to be without
any substance.

The appellant was appointed as a Peon and confirmed on
11th September, 1991. He was promoted as Assistant Rajbhasha
Instructor but such promotion was found to be not in accordance with

the Rules. The same was withdrawn on 09.12.1999 after serving a show cause notice. The appellant was reverted to the post of Peon. The challenge to the said order remained unsuccessful in C.W.J.C. No. 555 of 2000 by an order dated 24.02.2006.

Thereafter, the appellant submitted a representation in light of direction issued by this Court to consider the merit and eligibility of the appellant for promotion. In terms of the directions issued, the impugned order was passed on 07.09.2011. It was found that there are only two posts of Sahayak Rajbhasa Anudeshak, Group-III post at the regional level and that 50% of that post is required to be filled up by Limited Competitive Examination and that reservation policy will not be applicable to the single post. The challenge to the said decision was remained unsuccessful by the order impugned in the present Letters Patent Appeal.

The appellant claims promotion against Sahayak Rajbhasa Anudeshak without appearing in the Limited Competitive Examination meant to fill up one post by way of promotion. Learned counsel for the appellant could not refer to any Rule or instruction that the post of Sahayak Rajbhasa Anudeshak is required to be filled up without limited departmental examination and that the appellant is eligible for promotion on the basis of length of service alone. In absence of any Rule contemplating promotion on the basis of length

of service, the post of Sahayak Rajbhasa Anudeshak, as per the stand of the respondents, is required to be filled up on the basis of limited departmental examination. Still further, no employee has any right to claim promotion. He has a right to be considered for promotion. It is as and when it is decided to fill up the promotion post, the eligible candidates can apply to be considered for appointment.

In view of the said fact, we do not find any error in the order passed by the learned Single Bench which may warrant interference in the present Letters Patent Appeal and the same stands dismissed.

It is needless to say that the appellant shall be entitled to be considered for limited departmental examination as per his seniority and conditions of eligibility as and when the post is decided to be filled up in accordance with law.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P. Kumar/Anjani

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