

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7914 of 2014

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Ashok Kumar Deo S/o Upendra Prasad Deo Resident of Village- Bala Deo Itahari,
P.S. Fullidumar, District- Banka (Bihar).

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Industry Department, New Secretariat, Patna
2. The Additional Secretary, Industry Department, New Secretariat, Patna
3. The Director (Handloom & Silk), Industry Department, New Secretariat, Patna

.... Respondents

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Appearance :

For the Petitioner : Dr. Satyendra Kumar Srivastava, Advocate
For the State : Mr. Kundan Bhadur Singh, S.C.22

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 09-05-2016

Petitioner filed the writ application for a direction upon the respondent authorities to grant him promotion from the post of Technical Supervisor to the post of Project Manager. The primary reason for making such a demand is that the petitioner has certain qualifications in Silk which makes him more meritorious than others and since the Rule provides for promotion on the basis of seniority-cum-merit, his case ought to have been considered for promotion and conferred the benefit.

Respondents have filed a counter affidavit. They have denied the claim of the petitioner primarily on the ground that what the petitioner is demanding is contrary to the Rule which was notified on 23rd of December, 1987 under Article 309 of the Constitution of India. The provisions talks of seniority-cum-merit meaning thereby



that seniority shall be the predominant consideration for grant of promotion provided the person under consideration has the basic merit in his favour. The Rules do not provide that merely because some person is extra qualified, therefore, he will be given a march over other senior looking for promotion. In fact any relief in this regard will be reading more into the statutory provision for grant of benefit of promotion than what is provided for.

In addition to that the respondents have stated that claim of the persons eligible for promotion was taken up by the Departmental Promotion Committee. 14 persons came to be given benefit of promotion on the available vacancies and the posts. Name of the petitioner figures at serial no.17. No person below the rank or position of the petitioner has been granted this benefit, therefore, petitioner does not have any special reason to be given a direction for promotion ignoring the claim of at least two persons above him.

It is evident that the Departmental Promotion Committee had last met in the year 2011 and the position indicated in the counter affidavit was the position then. Time has elapsed, therefore, the respondents would be well advised to have a re-look into the issue of grant of promotion to such persons who may have become eligible now in the changed circumstances in the last five years.

Writ is disposed of with a direction upon the respondents

especially the Principal Secretary, Industries Department, Government of Bihar that he will examine the matter of grant of promotion and refer the matter to the Departmental Promotion Committee and if the petitioner comes within the zone of consideration now, his case for promotion will surely be considered and recommended.

(Ajay Kumar Tripathi, J.)

SanjayKumar/-

AFR/NAFR	NAFR
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