

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17457 of 2015

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Shiva Shankar Verma, son of Sri Ram Pal Verma, Presently resident of Flat No. C/301 Shanti Lok Apartment, Sheikhpura, Patna -800 014 (Bihar) Pastly reside at Flat No. 401, Sona Place Apartment, Sheikhpura, Patna-800014 (Bihar)

.... Petitioner/s

Versus

1. The Union of India through the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Trainings, Government of India, North Block, New Delhi-110001
2. The Under Secretary, Ministry of Personnel and Public Grievances and Pensions, Department of Personnel and Training, Government of India, New Delhi-110001
3. The State of Bihar through the Chief Secretary, Government of Bihar Patna.
4. The Secretary, Personnel and Administrative Reforms Department, Government of Bihar, Patna.
5. The Joint Secretary, Personnel and Administrative Reforms Department, Government of Bihar Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Durganand Jha, Advocate.
Mr. Sanjay Kumar Singh, Advocate.
Mr. Sanjeet Kumar Tiwari, Advocate.

For Union of India : Mr. S.D. Sanjay, A.S.G.
Mr. Abhay Shankar Jha, C.G.C.

For the State : Mr. A. Ujjwal, S.C. 4
Mrr. Upendra Patap Singh, A.C. to S.C. 4.

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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: 29-07-2016

Heard learned counsel for the parties.

2. The order dated 27th of July, 2015 passed by the Central Administrative Tribunal, Patna Bench, Patna (for short “the Tribunal”) in M.A. No. 381 of 2013/O.A. No. 605 of 2013 is subject

matter of challenge in the present writ application, whereby the claim of the petitioner to promote him in Super Time Scale with effect from 14th of June, 2007, when his immediate junior was promoted, remained unsuccessful.

3. The petitioner asserts that meeting of Departmental Promotion Committee for promotion to Super Time Scale was held on 13th of April, 2007 but his case for Super Time Scale was kept pending for the reason that his representation against the adverse entry in the Annual Confidential Report for the period 4th of November, 2001 to 31st of March, 2002 was pending consideration. Soon after the Departmental Promotion Committee recommended Super Time Scale to the junior of the petitioner, the petitioner got involved in a vigilance case bearing No. 2 of 2007 dated 3rd of July, 2007. The departmental proceedings have been initiated against the petitioner on the allegation of disproportionate income. Both criminal and departmental proceedings are still pending.

4. The learned Tribunal dismissed the Original Application on the ground that prayer for claim of Super Time Scale with effect from 14th of June, 2007 is barred by limitation as the cause of action arose to the petitioner in the year 2007. The Tribunal relied upon a judgment of the Supreme Court reported as S.S. Rathore Vs. State of M.P., (1989) 4 SCC 582 to hold that repeated representations

do not save limitation. The Tribunal found that there is no explanation in respect of delay till the year 2012. Therefore, the Original Application was dismissed as barred by limitation.

5. Learned counsel for the petitioner has vehemently argued that after the Super Time Scale was not granted on 14th of June, 2007, he submitted representation. Since the adverse remarks were the basis for not granting him Super Time Scale and that the adverse remarks were expunged in the year 2013, therefore, it cannot be said that an Original Application filed by the petitioner is beyond the period of limitation. The cause of action, in fact, culminated in the year 2013 and, therefore, the Original Application filed by the petitioner is within the period of limitation.

6. Even if the said argument is to be considered, but in view of subsequent events when the criminal and departmental proceedings stand initiated against him, he cannot be considered for the grant of Super Time Scale. May be adverse remarks were the basis for not granting Super Time Scale on 14th of June, 2007. But the fact remains that as of now there are criminal and departmental proceedings pending against him. It is after conclusion of such proceedings; the claim of the petitioner for Super Time Scale can be examined and considered. At this stage, we do not find any illegality or irregularity in the reasoning given by the Tribunal which may

warrant any interference in the present writ application.

7. The writ application is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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