

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9805 of 2014

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1. Ram Keshwar Vishwakarma S/o Late Narsinh Mistry Resident of Hawaii Adda Road, Malahchak Last, Police Station Jehanabad in the District of Jehanabad.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayat Raj Department, Government of Bihar, Patna
2. The Principal Secretary, Panchayat Raj Department, Government of Bihar, Patna.
3. The Director, Panchayat Raj Department, Government of Bihar, Patna.
4. The Director, Panchayat Raj Department, Government of Bihar, Patna.
5. The Joint Director-cum-Joint Secretary, Panchayat Raj Department, Government of Bihar, Patna.
6. The District Magistrate-cum-collector, Arwal..
7. The District Panchayat Raj Officer, Arwal.
8. The Block Development Officer, Karpi in the District of Arwal.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar

For the Respondent/s : Mr. Syed Md. Najmul Bari, Ac to SC 20

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 27-10-2016

Petitioner was a Panchayat Secretary and he retired as a Panchayat Secretary on 31.1.2011. Much after superannuation, on 17.6.2014 he files a writ application that the petitioner only came to know many months after his retirement that he had been given benefit of promotion as a Block Panchayat Raj Officer. Initially, the date of such promotion was 9.12.2009 but later on, by virtue of an order passed by a Writ Court, a copy of which is Annexure- 3, his date of promotion was shifted to 27.5.2009, the so-called date his juniors were granted promotion.

The present round of writ application on behalf of the petitioner is to grant him benefit of arrears of salary of promoted post

from 27.5.2009 to 31.1.2011. According to counsel for the petitioner, petitioner has a right to demand and beget the benefit which was granted in his favour but unfortunately since there was no communication of the fact, he did not join the promoted post and he superannuated.

The State seriously contests the stand taken in the writ application at least with regard to the issue of the petitioner not having knowledge of the order of promotion. In fact, they take a stand that the petitioner deliberately chose not to join promoted post for reasons best known to him and now he wants to make a quick buck through the present writ application by demanding salary of a post which he neither joined nor worked.

The Court has gone through the notification relating to grant of promotion to the petitioner as well. It is a composite notification relating to large number of such persons who had been given this benefit by virtue of Annexure- 2. In an era where every government servant is busy from morning to evening gathering inputs and looking for prospect of enhancement of career and earning and when large number of other colleagues had also been granted benefit of promotion, it is difficult as well as suspicious to accept the cock and bull story of the petitioner that he did not have information of his promotion, therefore, he did not join.

The Court can take judicial notice of the fact based on

large number of other cases of Panchayat Secretary that it is more lucrative to remain as a Panchayat Secretary with the kinds of funds which are released for departmental work of a Gram Panchayat than go on a promoted post and give up the goody bag. That seems to be the only reason for not joining. The plea of petitioner to plead lack of knowledge or information about the promotion order passed in his favour a little over a year and a quarter, and that too in the era where news travels faster than lightning is unacceptable.

The Court is not willing to reward the petitioner by ordering payment of any kind of benefit of salary for the period in question, especially when it is an admitted fact that he did not join the promoted post nor has he worked on the promoted post. The prayer to that extent deserves to be rejected and is rejected.

However, as a matter of clarification, which is not required to be given as such, the benefit of promotion, post retirement, will surely accrue in his favour.

Writ is required to be dismissed and is dismissed.

(Ajay Kumar Tripathi, J)

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