

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2586 of 2016

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1. The Kendriya Vidyalaya Sangathan, Institutional Area, Shaheed Jeet Singh Marg, New Delhi- 110016 through its Commissioner
 2. The Commissioner, Kendriya Vidyalaya Sangathan, Institutional Area, Shaheed Jeet Singh Marg, New Delhi- 110016
 3. The Joint Commissioner, Kendriya Vidyalaya Sangathan, Institutional Area, Shaheed Jeet Singh Marg, New Delhi- 110016
 4. The Deputy Commissioner, Administration, Kendriya Vidyalaya Sangathan, Institutional Area, Shaheed Jeet Singh Marg, New Delhi- 110016
 5. The Deputy Commissioner, Kendriya Vidyalaya Sangathan, Patna Region, Kankarbagh Colony, Lohiya Nagar, Patna- 800 020;
 6. The Section Officer, Establishment- III, Kendriya Vidyalaya Sangathan, Shaheed Jeet Singh Marg, New Delhi- 110016
- All represented through Addl. Commissioner (Admn.), Kendriya Vidyalaya Sangathan, New Delhi, namely, Mr. G.K. Srivastava

.... Petitioner

Versus

Sushil Kumar, son of Late Ram Prasad Ram, resident of Ram Prasad Bhawan, Nalanda Colony, Kankarbagh, P.S. Kankarbagh, District- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. G.K. Agrawal, Advocate
Mr. Kumar Ravish, Advocate.
For the Respondent/s : Mr. Gautam Bose, Sr. Advocate.
Mr. Vikash Jha, Advocate.
Mr. Ajay Kumar, Advocate.

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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: 21-10-2016

The challenge in the present writ application is to an order dated 11th of May, 2015 passed by the Central Administrative Tribunal, Patna Bench, Patna (for short “the Tribunal”) in O.A. No. 126 of 2012 whereby, an Original Application filed by the respondent herein (hereinafter referred to as “the applicant”) under Section 19 of

the Administrative Tribunal Act, 1985 was allowed.

2. The admitted fact is that the applicant was working as Trained Graduate Teacher and was promoted as Post Graduate Teacher (PGT) vide communication dated 12th of April, 1996 (Annexure-A/3 before the Tribunal). The condition in the promotion order was that the candidate must join the respective school by 4th of May, 1996 and if he fails to report for duty within the stipulated date, then the offer of promotion would automatically be treated as withdrawn and that he would be debarred from getting further promotion for one year with attendant consequences on seniority etc.

3. As per the applicant, he did not get the information regarding his promotion and sought extension of time to join which was granted on 18th of September, 1996 (Annexure-A/5) to join by 30th of September, 1996 but the applicant did not join within the time so granted. It is thereafter, two Departmental Promotion Committee meetings were held on 27th of March, 1998 and 3rd of April, 1998 whereby candidates up to Seniority No. 1447 and 2664 in the SC category respectively of TGT (Social Studies) were empanelled for promotion to the post of PGT (History) but the applicant was not empanelled as his seniority number was 6041 in the S.C. category.

4. The learned Tribunal allowed the application holding that once the applicant was found entitled for promotion in the year

1996, therefore, he has the right over the first available vacancy which may arise after the period of debarment i.e. from 30th of September, 1997. It is on that basis, the learned Tribunal allowed the Original Application filed by the applicant.

5. Learned counsel for the petitioner has vehemently argued that after the period of debarment, applicant can claim promotion only on his turn as per his seniority and cannot be promoted in preference to other seniors. It is, thus, contended that as per the seniority, the S.C. category candidates up to Serial No. 1447 were considered in the D.P.C. meeting held on 27th of March, 1998 and up to Serial No. 2664 were considered on 3rd of April, 1998. Therefore, the applicant could not be considered in the meeting of D.P.C. as he was far below at Serial No. 6041 of the S.C. category.

6. On the other hand, learned counsel for the applicant argued that the applicant was found eligible for promotion and, therefore, there is no reason as to why his name appeared at Serial No. 6041 of the Seniority List of S.C. category and, thus, was denied promotion after the period of debarment. Thus, it is argued that the order of the Tribunal is fair and reasonable.

7. We have heard learned counsel for the parties and find that the order passed by the learned Tribunal is not sustainable in law.



8. A perusal of the Original Application filed by the applicant shows that the applicant is not disputing his seniority at Serial No. 6041 (Para 4.3 of the Original Application). It is also not disputed that after the period of debarment, two D.P.C. meetings were held on 27th of March, 1998 and 3rd of April, 1998 and no candidate junior to the applicant was considered for promotion to the post of PGT (History). The name of the applicant was far below in the seniority list than the candidates who were considered for promotion in the two D.P.C. meetings held in the year 1998. Therefore, the applicant cannot claim to be considered for promotion in preference to his seniors after the period of debarment merely for the reason that he was found eligible for promotion earlier in the year 1996. The zone of consideration for D.P.C. depends upon number of the vacancies available. If in the year 1996, the applicant was within the zone of consideration, it does not necessarily mean that he has to be in the zone of consideration for the subsequent vacancies as well. Since no junior to the applicant was considered for promotion in the D.P.C. meetings held in the year 1998, the applicant cannot claim any preferential right of promotion on the basis of promotion earlier granted in the year 1996. The entire basis on which the Tribunal has allowed the Original Application suffers from patent illegality and cannot be sustained.

9. Consequently, the writ application is allowed, the order passed by the Tribunal is set aside and the Original Application is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

P.K.P.

AFR/NAFR	A.F.R.
CAV DATE	N.A.
Uploading Date	
Transmission Date	