

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14538 of 2011

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Arbind Singh son of Late Bhagwan Singh, resident of village- Main Chak,
P.O. Nadwa, P.S. Dhanarua, District- Patna at present working on the post
of Typist Clerk in the Patna Municipal Corporation, Patna

.... Petitioner

Versus

1. The State of Bihar through Its Secretary, Department of Urban Development, Patna.
2. The Municipal Commissioner, Patna Municipal Corporation, Patna, Bihar.
3. The Chief Executive Officer, Patna Municipal Corporation, Patna.
4. The Assistant Executive Officer, New Capital Block, Patna Development Corporation, Patna.
5. The Executive Officer, Patna City Block, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Jagdish Prasad Bhagat

For the Respondent/s : Mr. AC to GP-3

Mr. Ranjit Kumar Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

10 24-10-2016

Heard Sri Jagdish Prasad Bhagat, learned counsel

for the petitioner, learned AC to GP-3, as well as Sri Ranjit
Kumar Pandey, learned counsel, who has appeared on Respondent
nos.2 to 5/ Patna Municipal Corporation, Patna

The petitioner has approached this Court, invoking
its writ jurisdiction under Article 226 of the Constitution of India,
with a prayer to direct the Respondent no.2/ Municipal
Commissioner, Patna Municipal Corporation, Patna to promote
him on the post of Typist-cum- Clerk. It has been indicated that in
view of order dated 23.9.2010 passed in C.W.J.C.No.15811 of

2010, the petitioner had filed representation, but the same was not considered nor promotion was granted.

It is not in dispute that the petitioner was earlier engaged as daily-wager in Patna Municipal Corporation and finally in the year 1991, his service was absorbed on the post of Chainman by order dated 02.08.1991.

In the counter affidavit filed on behalf of Respondent no.2, it has been indicated that in the year 1998 also, almost for the similar relief, the petitioner had approached this Court and filed a writ petition, which was disposed of with certain direction to the Municipal Commissioner to examine and pass order. Thereafter, in compliance with the order of this Court in C.W.J.C.No.8854 of 1998 dated 10.09.1999, the Chief Executive Officer, Patna Municipal Corporation had considered the claim of the petitioner for his promotion as typist. Since the post of typist and Chainman was entirely a different cadre and pay scale of the typist was much higher than the pay scale of Chainman, the case of the petitioner was not considered favorably. It was made clear that the post of typist was not a promotional post and it was to be filled up directly, whereas service of Chainman was from the Engineering wing. It was indicated that though the petitioner was chainman, he had officiated as typist, for which 20 % extra

allowance was also paid and his claim was rejected for promotion long back on 13.02.2003 vide Annexure-C to the counter affidavit of Respondent no.3. It was submitted by learned counsel for the Patna Municipal Corporation that the said order has never been set aside and till date the order dated 13.02.2003 is valid. He has further raised objection that of course, in the year 2010, the writ petition filed by the petitioner almost for the same relief was disposed of with direction to file representation before the Municipal Commissioner, Patna Municipal Corporation and the Municipal Commissioner was directed to consider the request of the petitioner for grant of promotion on the post of typist Clerk. He submits that once for the same relief, issue was already adjudicated, the petitioner is not entitled to maintain the present writ petition. It was also submitted that the petitioner has already retired on 30.06.2012 and for working as typist, he was paid 20 % additional allowance till the date of his retirement.

In view of facts and circumstances, no positive order can be passed in favour of the petitioner. Accordingly, the writ petition stands dismissed.

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(Rakesh Kumar, J)