

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 6125 of 2014

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Harendra Kumar Sinha, Son Of Late Jagdeo Narayan Sinha, Resident Of C/O Sri Sahdeo Singh, Sashi Villa, New Punaichak, Hanuman Nagar, Patna- 800023

.... Petitioner/s

Versus

1. The State Of Bihar through The Principal Secretary, Road Construction Department, Bihar, Patna
2. The Chief Engineer, South Bihar Road Construction Department, Bihar, Patna
3. The Superintending Engineer, Road Construction Department, Bhojpur Road Circle, Ara
4. The Executive Engineer, Sahabad Road Division, Road Construction Department, Ara, Bhojpur

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dharmesh Kumar Shrivastava

For the Respondent/s : Mr. Gautam Bose

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 08-03-2016

Heard learned counsels for the parties.

Law is well settled in this regard that even for the benefit of time-bound-promotion or any benefit of stagnation scheme, an employee can get that benefit provided he fulfills requirement laid down for substantial promotion.

In the present case, the petitioner, who retired as Accounts Clerk, was required to pass the departmental examination in accounts before such benefit can be given.

For some strange reason, the benefit of 1st time-bound-promotion was granted to the petitioner and he derived the benefit thereof. The admitted position is that the petitioner has not passed

the departmental examination nor has he been exempted from passing of the same.

If such omission has been discovered and Annexure-1 and 2 came to be passed, the same would not require to be interfered with. The benefit, which the petitioner is looking for under the stagnation scheme, can neither be granted nor retained. Law is quite well settled in this regard.

However, the Court is willing to give one indulgence that there will be no recovery effected against the petitioner by virtue of Annexure-1 and 2 on the ground of recent ratio of the decision rendered by Hon'ble Supreme Court in the case of ***State of Punjab and others Vs. Rafiq Masih (White Washer) reported in 2015 (1) PLJR (SC) [261]***.

Writ application is allowed to the above limited extent.

(Ajay Kumar Tripathi, J)

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