

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10172 of 2013

Kanhai Lal Vishawakarma S/o Late Ram Prasad Sharma R/o Village- Mahavir Nagar, Post Office- Pakri, Via- Anisabad, Police Station- Beur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Home Secretary (Special), Government of Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Deputy Inspector General of Police, Wireless, Bihar, Patna.
5. The Superintendent of Police, Wireless, Tx. Building, Rajbansi Nagar, Bailey Road, Patna.
6. The Deputy Superintendent of Police, Wireless, Tx. Building, Rajbansi Nagar, Patna.

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Surya Narain Yadav, Adv.

For the Respondent/s : Mr. A. N. Deo, SC-26 and
Mr. Praveen Kumar Verma, AC to SC-26

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 04-04-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

In this case, the petitioner is challenging his
placement in the seniority list, making prayer for giving direction to
the respondents to fix his seniority, as he has claimed that the
seniority has to be counted from the date of entry in the service, not
from the date of passing the training examination and wrongly the
respondents have given the seniority to those who have entered into
the service later on.

From the record it appears that the petitioner was appointed as a Literate Constable (Fitter), vide Office Order No. 1356/79 dated 31/08/1979 (Annexure-1) issued by the A.I.G. (Wireless), Patna.

The petitioner having qualification of I.T.I. in Fitter Trade Radio and T.V., accordingly joined the duty and started working and after ten years, vide Office Order no. 1834/87, Memo no. 3090/RO (Signal) dated 16.06.1987, the petitioner and others were amalgamated in the technical cadre with the certain conditions which they agreed.

According to the said terms and conditions, the petitioner and others were to pass the training examination.

As per the counsel for the petitioner, the petitioner had passed the training examination in first attempt whereas the counsel for the State has disputed this fact and submits that the petitioner had cleared the examination in second attempt. These are the matters of disputed questions of fact cannot be settled in the writ application, but the petitioner was given the seniority from the date of his entry in service. Later on, the petitioner was promoted to the post of A.S.I. (Technical). Certain persons, who have entered into direct recruitment, their seniority have been fixed, the petitioner was treated to be their senior. To settle the grievance, they approached

this Court in CWJC 4193 of 1989 which was filed by Shakti Ranjan Nag vs. State of Bihar & Ors. where they have claimed that their seniority cannot be affected by the persons who have been promoted, as their appointment were made in proper manner, but in the writ application the present petitioner was not made a party.

While disposing of the matter, the Court directed that seniority of Shakti Ranjan Nag and those who were directly recruited, should be decided afresh after giving notice to the persons affected.

It appears that the respondent authority had redrawn the seniority of Shakti Ranjan Nag and others who were directly recruited and treated them senior to the petitioner and that is the reason for him to approach this Court in the present writ application.

In the writ application, the specific plea has been taken that in the said writ application they were not made party and so much so that in terms of the order passed in CWJC No. 4193 of 1989 before redrawing the seniority, they were required to be heard, but the respondents without giving any notice, had redrawn the seniority and made this petitioner to be junior.

In such view of the matter, it will be fair for this Court to remand the matter to D.I.G.(Wireless), Patna who will examine the case of the petitioner with an open mind, after giving

opportunity of hearing to both the parties, fix the seniority and whoever will be affected, will have liberty to take legal course as is available in law.

For the convenience, the petitioner will have liberty to file a representation along with a copy of this order before the D.I.G. (Wireless), Patna who will decide the issue after hearing both the parties within a period of six months from the date of receipt/production of a copy of this order.

With the above observation/direction, this petition is disposed of.

(Shivaji Pandey, J)

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