

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20406 of 2016

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Sanjay Kumar, aged 47 years, S/o Sri Braj Kishore Shrivastava resident of Mohalla - Adarsh Mohalla, P.S. - Triveniganj, District - Supaul, presently posted as Deputy Superintendent (Prison) Jehanabad.

.... Petitioner

Versus

1. The State of Bihar.
2. The Principal Secretary (Home), Government of Bihar.
3. The Inspector General (Prison), Government of Bihar.
4. The Departmental Screening Committee for promotion to the post of Superintendent (Jail) from the post of Deputy Jail Superintendent, Jail Department, Government of Bihar, Patna.
5. The Chairman, Bihar Public Service Commission, Bailey Road, Patna.
6. The Secretary, Bihar Public Service Commission, Bailey Road, Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Shrivastava, Adv.

For the Respondent/s : Mr. Sanjay Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 28-03-2017

Heard Mr. Rakesh Kumar Shrivastava, learned counsel appearing for the petitioner and the learned counsel for the State.

The petitioner has prayed for quashing of the decision of the Departmental Screening Committee which considered the case of the petitioner for promotion to the post of Superintendent (Jail) from the post of Deputy Superintendent (Jail) but decided against his promotion, inter alia, on grounds that the petitioner was awarded punishment by the disciplinary authority by the order dated 11.7.2014 and which punishment order having been affirmed by the appellate authority, was yet in force.



The grievance raised stands confirmed from the statement made by the respondents in paragraph no.7 to 10 of the counter affidavit which further informs that the punishment order would be effective until 30.6.2017 and only whereafter the promotion of the petitioner can be considered.

It is submitted by Mr. Shrivastava that while the writ petition is pending before this Court several juniors have been promoted to the post of Superintendent (Jail) and since there are only six sanctioned posts of Superintendent (Jail), that when the attention of this Court was drawn to this aspect of the matter, a co-ordinate Bench by the order passed on 31.1.2017 has directed that the promotion so granted to the juniors would be subject to the final result of the writ petition, He thus submits that the respondents concerned would have to bear this in mind while considering the case of the petitioner for promotion.

I have heard learned counsel for the parties and have perused the records.

The stand taken by the respondents in their counter affidavit for denying promotion to the petitioner to the post of Superintendent (Jail) would require no interference in the circumstances discussed and the decision taken by the Departmental Screening Committee to that extent suffers no infirmity. Admittedly the petitioner was visited



with punishment which is in force until 30.6.2017. Obviously in such circumstances, he could not have been granted promotion even if his juniors were being promoted but the situation presently has changed, inasmuch as the punishment order being put to question before this Court in C.W.J.C.No. 20478/2016, the order of punishment has been quashed by this Bench vide judgment and order passed on 27.3.2017. Meaning thereby the punishment order which was an obstruction for the petitioner in the matter of promotion to the post of Superintendent (Jail) is no more in existence.

In the circumstances, where the punishment order itself has been quashed, the respondent authorities would be under duty to consider the promotion of the petitioner to the post of Superintendent (Jail) with effect from the date same became due to the petitioner.

Having heard learned counsel for the parties and considering that the only obstruction in the path of the petitioner for consideration of his case for promotion to the post of Superintendent (Jail) has vanished, I deem it proper to direct respondents no. 2 to 4 to consider the claim of the petitioner for promotion and take appropriate decision in this regard within a maximum period of three months from the date of receipt/ production of a copy of this order, bearing in mind the interim order passed by this Court on 31.1.2017 which is hereby confirmed.



The writ petition is allowed with the directions
aforementioned.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	18.04.2017
Transmission Date	NA

