

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.346 of 1999

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Rajendra Singh, son of Sri Ram Prasanna Singh, resident of village- Barauli, Police Station- Piro, District- Bhojpur at present posted as Steno Assistant Sub-Inspector, Cabinet Vigilance Department, Regional Office, Bhagalpur, District- Bhagalpur.

.... Petitioner

Versus

1. The State of Bihar
2. Secretary, Department of Home (Police), Government of Bihar, Patna.
3. Secretary, Department of Vigilance, Government of Bihar, Patna.
4. Director General of Police, Bihar, Patna.
5. Director General-cum-Inspector General (Vigilance), Bihar, Patna.
6. Additional Director General of Police (Vigilance), Bihar, Patna.
7. Assistant Inspector General (Welfare), Bihar, Patna.
8. Janardan Prasad, son of not known to the petitioner, promoted and posted as Steno Sub-Inspector, in the office of Superintendent of Police, Munger.
9. Shashi Bhushan Prasad, son of not known to the petitioner, promoted and posted as Steno Sub-Inspector in the Office of Superintendent of Police, Railway, Patna.
10. Rameshwar Pandit, son of not known to the petitioner, promoted and posted as Steno Sub-Inspector, in the Office of Superintendent of Police, Gumla, District- Gumla

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Adv.
Mr. Md. Imteyaz Ahmad
Mr. Shashank Shekhar, Adv.
Mr. Ritwar Raman, Adv.

For the State : Mr. Anil Kumar Verma, A.C. to A.A.G.-9
For the Respondent No.10: Mr. Dilip Kumar-1

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date: 06-11-2017

Heard learned counsel appearing for the respective parties.



2. In this case, the petitioner is challenging the order of promotion dated 12.08.1998 (Annexure-1) and 23.12.1998 (Annexure-2) by which some of the Steno Assistant Sub-Inspectors have been promoted to the post of Steno Sub-Inspectors.

3. The following facts are necessary for disposal of the case.

A combined advertisement No.46 of 1984 was published in the year 1986 by the Bihar Sub-ordinate Selection Board. The petitioner and others have filed their applications for consideration for appointment to the post of Assistant Sub Inspector. Altogether 112 persons were selected to the post of Steno Assistant Sub Inspector, 11 persons were allocated to the Cabinet Vigilance Department and rest were sent to the Director General Office. A writ application vide C.W.J.C. No.6947 of 1991 was filed, where the issue was raised whether the persons working on the post of Steno Assistant Sub Inspector, Cabinet Vigilance Department are the members of General Cadre of Steno Assistant Sub Inspector or not or they constitute a separate cadre. This Court vide order dated 02.12.1991 disposed of the writ petition, giving direction to approach the Government by filing a suitable representation, if such representation is filed, the State will dispose of the same. Liberty was given to the petitioners to approach this Court if the order would



prejudice them.

4. Another writ application was filed vide C.W.J.C. No.2793 of 1995, in which the State has taken stand that Steno Assistant Sub Inspector of Director General Office and the Steno Assistant Sub Inspector of Cabinet Vigilance constitute a common cadre and accordingly the Court has refused to pass any order in view of the stand taken by the State. Some of the persons other than the petitioner have challenged the stand of the State of common cadre in C.W.J.C. No.11879 of 1996. The said writ petition was disposed of with a direction to prepare the Combined Gradation List of Steno Assistant Sub Inspectors according to the merit. The Gradation List was published on 06.05.1995. In the said list 11 persons were attached with the Cabinet Vigilance Department and rest 101 persons were attached with Director General Office. Later on, the Government has given an option to the Steno Assistant Sub Inspector, if they so advise they may opt the General Assistant Sub Inspector cadre.

5. As per the petitioner, large number of Assistant Sub Inspectors including the respondents have opted for the general Assistant Sub Inspector cadre and they did not remain in the Steno cadre, but the petitioner did not offer the General cadre of Assistant Sub Inspector, so he remained in the Steno Cadre. The general cadre



of Assistant Sub Inspector is different to the Steno Assistant Sub Inspector, they constitute a separate cadre. The Government, later on, has directed the B.P.S.C. to prepare the seniority list of Steno Assistant Sub Inspectors of 1986 batch. The B.P.S.C. has prepared and published the seniority list (Annexure-9). The seniority list has been divided in three parts; first part serial nos.1 to 94, according to seniority who have passed the entire examination, serial nos.95 to 109, are those who have failed in one physical test and serial nos.110 to 112 those who have failed in two physical tests. The petitioner is at serial no.9 in the panel, whereas, Anjan Kumar Shrivastava, respondent no.9 is at serial no.10 in the panel. The name of Anjani Kumar Shrivastava has already been deleted.

6. The grievance of the petitioner is that in the list of promotion from Steno Assistant Sub Inspector to Steno Sub the name of the petitioner is not there and the private respondents have been promoted to the post of Steno Sub Inspector.

7. Learned counsel for the petitioner has taken a plea that all the respondent have opted for the General Assistant Sub Inspector, but they have wrongly been included in the Steno cadre and promoted to the post of Steno Sub-Inspector. In paragraph no.17 to 25 of the writ petition plea has been explained by the petitioner, wherein he has given the file number and other facts to substantiate



the fact that respondents have opted the general cadre has wrongly been accommodated in the Steno Cadre.

8. The State as well as Janardan Prasad have filed their respective counter affidavits, wherein it has specifically been stated that the persons who were in steno cadre have been promoted to the post of Steno Sub Inspector not a single person from general cadre are in the said promoted list. The stand of the petitioner is that they have opted for general Assistant Sub-Inspector is not correct, but they have remained in the Steno cadre and they have rightly been promoted. Learned counsel for the State as well as learned counsel for the Janardan Prasad have placed reliance on the Seniority List dated 20.12.1997, wherein Janardan Prasad has been shown at serial no.29 in the steno cadre, whereas the petitioner has been shown as serial no.41 inasmuch as Janardan Prasad has also addressed a letter to the Director General of Police for redressal of his grievance where he has taken a stand that he was/is in the steno cadre.

9. As the statement made by the petitioner in paragraph nos.17 to 25 having been not denied by the State vice-versa the stand taken by the State in the counter affidavit that only the persons who are in steno cadre has been promoted, has also not been disputed by the petitioner, in such view of the matter, it is very difficult to draw any inference by this Court in a situation no positive finding can be



recorded. However, the petitioner, if so advised, may approach the Director General of Police, Bihar, Patna, for redressal of his grievance.

10. For convenience, the petitioner is directed to file a proper representation before the Director General of Police, Bihar, Patna, along with the copy of this order within a period of four weeks from today. If such a representation is filed by the petitioner, the Director General of Police will call for the original records and verify the fact whether the respondents who have been promoted through Annexure-1 and 2 have ever opted for general Assistant Sub Inspector cadre and take decision accordingly within a period of three months from the date of filing of representation by the petitioner.

11. With the aforesaid observations and directions, this writ application is disposed of.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	10.11.2017
Transmission Date	N/A.

