

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.627 of 2015

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Moti Chandra Kumar , son of Late Ram Chandra Prasad Permanent Resident of Village and post office - Rahmatpur, Police Station and District -Samastipur, at present residing at Mohalla- Adarsh Nagar, Indra Niwas, Post Office + Police Station & District Samastipur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Commissioner-cum-Secretary, Revenue Department ,Govt. of Bihar, Old Secretariat, Bihar, Patna.
3. The Commissioner-cum-Secretary, General Administration Department , Govt. of Bihar, Old Secretariat, Bihar, Patna.
4. The Commissioner, Darbhanga Division, Darbhanga
5. The Collector –cum- District Magistrate, Samastipur, post & District - Samastipur, Pin-848101
6. The Accountant General, Bihar Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Purushottam Kumar Jha
For the Respondent/s : AC to GP – 4
Sri Binod Kumar Labh

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 20-02-2017

Heard Sri Purushottam Kumar Jha, learned counsel for the petitioner, learned AC to GP No. 4 as well as Sri Binod Kumar Labh, learned counsel who has appeared on behalf of the Accountant General, Bihar/ respondent no. 6.

The present writ petition has been filed by the petitioner under Article 226 of the Constitution of India in the year 2015 whereas, he superannuated long back on 30.11.2011 for the following reliefs:-

(a) To give due Senior Selection Grade



promotion with effect from 1.06.1981, super time scale promotion from 01.06.1983, time bound promotion with effect from 20.02.1998 on the completion of twenty five years of service in the light of letter no. 10770 dated 3.12.1981 issued by the Finance Department, Government of Bihar, Patna

- (b) *To give due promotion on the post of P.A. to Collector with effect from 1.07.1991, the date when the post became vacant in the light of letter no. 684/dated 20.01.1978 issued by the Personnel & Administrative Reforms Department, Government of Bihar, Patna and to provide pay scale of the above post and thereafter all consequential monetary and retiral benefits thereon,*
- (c) *To revise pension, gratuity, commutation leave salary, group insurance etc. after enhancing pay scale in the light of order issued vide letter dated 20.11.2012 of the respondent Collector, Samastipur much earlier with other consequential benefits after revision of pay scale along with penal interest @ 18 percent per annum from the date of promotion i.e. from 01.01.2009 till the date of payment and to pay monetary benefits of III ACP promotion.*
- (d) *To give all promotional post retiral and other consequential monetary benefits after revision of pay on promotional posts due and further to revise pension, gratuity, commutation, leave salary along with interest as prayed earlier from the date of promotion till the date of payment in the eye of law and principle of natural justice*



- (e) *To pay the damage and harassment costs as the Hon'ble court deem fit and proper for unnecessarily harassing the petitioner since long time which caused him irreparable loss and which can not be compensated with any monetary compensation however justice demands that heavy harassment costs be paid to the petitioner for the ends of justice.*

In sum and substance the petitioner wants that he should be given promotion as P.A. to Collector with effect from 1.07.1991. It was submitted by learned counsel for the petitioner that earlier in place of petitioner the case of Sri Bankey Bihari Prasad was recommended for promotion as P.A. to Collector to the State Government. It is admitted fact that petitioner had earlier approached this court by filing writ petition vide CWJC No. 5807 of 1992 which was finally disposed of on 19th September 2005. The order is quoted hereinbelow:-

“Heard counsel for the parties.

2. The writ petitioner is seeking direction against the respondents to give him due seniority as per the circular of the State Government, as contained in annexure 3, at par with respondent nos. 4 and 5.

3. Learned counsel for the petitioner submitted that at the moment, he does not have any instruction to press this application. However, the petitioner may be given liberty to represent his case before the appropriate authority, in case



he has subsisting grievance.

4. It is submitted by learned counsel for the state that the appeal filed by the petitioner pertaining to his seniority has already been dismissed, and, therefore, no useful purpose will be served by considering his representation, if any.

5. In the given facts and circumstances of the case and seeing the nature of relief sought for by the petitioner, he may represent his case before the authorities concerned for redressal of his grievances which would be considered and disposed of in accordance with law.

6. With the direction/ observation aforesaid, this application is disposed of.”

It is further evident that thereafter Civil Review No. 241 of 2005 was also filed by the petitioner which was dismissed as withdrawn. It has been claimed that right from 1991 the post of P.A. to Collector was lying vacant but petitioner though was senior his case was never considered. Sri Jha, learned counsel for the petitioner submits that in view of liberty granted by this court vide its order dated 19th September 2005 in CWJC No. 5807 of 1992 the petitioner filed a detailed representation vide Annexure – ‘3’ to the present writ petition which was filed on 2.9.2008 however till date no decision has been taken. It has been argued that if the petitioner is granted



promotion as P.A. to Collector with retrospective effect i.e. from 1.07.1991 the petitioner will be entitled to get all consequential benefits as claimed in the writ petition whereas learned AC to GP No. 4 while opposing the present writ petition has referred to Annexure 'E' to the counter affidavit. He submits that the claim of seniority for promotion of the petitioner *vis -a -vis* one Banke Bihari Prasad was considered in view of the order passed in CWJC No. 5807 of 1992 and finally the claim of promotion of the petitioner was rejected. The said order was never challenged nor in the present writ petition petitioner has brought on record the said order.

Fact remains that the petitioner superannuated with effect from 30th November 2011 and the present writ petition was filed in the year 2015 with a prayer to grant seniority to the petitioner with effect from 1991. The court is of the opinion that in such stale matter no positive order can be passed.

The writ petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22-02-2017
Transmission Date	NA

