

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14835 of 2009

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Chandradhan Prasad Pandey S/O Sri Rampujan Pandey Vill.- Dorbi Barhi, P.S.-
Baniyapur, Distt.- Saran, Presently Posted As Assistat Accounts Officer, Bihar
Police Building Construction Corporation, B.M.P.S. Camp, Patna-14

.... Petitioner

Versus

1. Bihar Police Building Corporation Through Its Secretary
2. The Chairman Cum Managing Director Of Bihar Police Building Construction Corporation
3. The Bureau Of Public Enterprises Through Its Secretary Department Of Finance, Government Of Bihar, Patna
4. The Home Commissioner (Home Police) Government Of Bihar, Patna
5. The Commissioner (Personal and Administrative Reforms)

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sriram Krishna, Adv.
Mr. Tanay Bhaskar, Adv.

For the Respondent/s : Mr. Rajeev Kumar Sinha, AC to AAG-7
For the Bihar Building Corp.: Mr. Prasoon Sinha, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 05-07-2017

Heard Mr. Sriram Krishna, learned counsel appearing on behalf of the petitioner, Mr. Rajeev Kumar Sinha, AC to AAG-7, for the State and Bureau of Public Enterprises and Mr. Prasoon Sinha, learned counsel for the Bihar Police Building Construction Corporation.

The petitioner while seeking a writ of mandamus for consideration of his case for promotion as Audit Officer/ Accounts Officer, has also prayed for quashing of the order bearing Memo No. 2760 dated 13.5.2009 passed by the Principal Secretary, Home



(Police) Department, whereby his claim for promotion to the post of Accounts Officer has been rejected, inter alia, on grounds that he lacks the necessary educational qualification.

While the petitioner claims such promotion simply on grounds that he has been officiating on the post since 15.7.1988, it is the specific stand of the Corporation as well as the State that whereas the predecessor on the post were all Chartered Accountant and which is the essential qualification prescribed by the Bureau of Public Enterprises, the petitioner is not even a B.Com.

There is no rejoinder to the counter affidavit which was served on the learned counsel for the petitioner almost five years back.

Mr. Sriram Krishna, learned counsel for the petitioner, relies upon a judgment of the Supreme Court since reported in AIR 1990 SC 371 (**Bhagwati Prasad v. Delhi State Mineral Development Corporation**), to submit that in absence of prescribed qualification, a continuation on the post would be a relevant factor for such promotion, but, in my opinion, the reliance on the judgment is wholly misplaced, specially when it is a specific stand of the respondents that whereas the predecessors holding the post were Chartered Accountant(s), the petitioner is not even a B.Com.

Having heard learned counsel for the parties and considering the specific stand taken by the Corporation at paragraphs



8 to 12 and taking note of the fact that the predecessors on the post were all Chartered Accountant, a mere continuation of the petitioner on the post on officiating basis, in my opinion, would not be sufficient enough to allow the claim for promotion. The petitioner lacking in educational qualification to hold the post, no cause for indulgence is made out to interfere with the order put to challenge.

The writ petition is disposed of.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.07.2017
Transmission Date	NA

