

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.718 of 2014  
IN  
Civil Writ Jurisdiction Case No. 9122 of 1998**

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1. Umesh Chandra Prasad Verma Azad Son of Late Nageshwar Prasad, resident of Mohalla- Kasipur, Ward No. 14, Police Station- Town, District- Samastipur  
(Since dead, the appellant has been substituted by following heir vide order dt. 15.12.2016 passed in I.A. No. 8275/2016)

1(i) Prabhawati Devi, W/o Umesh Chandra Prasad Verma Azad Son of Late Nageshwar Prasad, resident of Mohalla- Kasipur, Ward No. 14, Police Station- Town, District- Samastipur

.... .... (Petitioner) - Appellant

Versus

1. The State of Bihar  
2. The Secretary, Department of Minor Irrigation, Government of Bihar, Patna  
3. Gautam Rai Son of name not known, Accountant, Tube Well Division, Samastipur  
4. Paras Nath Mishra Son of name not known, Accountant, Tube Well Division, Motihari  
5. Rebti Raman Lal Das, Son of name not known, Accountant, Tube Well Division, Betiah

.... .... (Respondents) - Respondents

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**Appearance:**

For the Appellant/s : Mr. Suraj Narain Yadav, Advocate.  
For the Respondent/s : Mr. Maruth Nath Roy  
(AC to SC 4 Mr. Arvind Ujjwal).

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI  
and  
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 23-11-2017

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

2. Writ Application of the petitioner, who was the appellant but has now been substituted, has been dismissed by the learned single Judge. His prayer for grant of promotion to Junior



Selection Grade, Senior Selection Grade, Super Time Selection Grade on the post of Accountant as well as promotion on the post of Accounts Superintendent has been rejected and the Writ dismissed. The appeal, therefore, came to be preferred against the said order.

3. Learned counsel for the petitioner submits that the learned single Judge has committed an error by taking into consideration Annexure 'E' which is a subsequent notification and not Annexure 'A' from where the right flows.

4. The said submission does not merit any consideration because the claim for grant of Junior / Senior / Super Time Selection Grade was part of the recommendation of the Fourth Pay Scale Revision Committee and was an anti-stagnation measure, not that such promotions were required to be given as a matter of course to every employee, who may have also earned substantive promotion in his own right. This is what this Court has to observe with regard to Junior / Senior / Super Time Selection Grade.

5. When this comes down for application of facts in the present case, there is a categorical finding and not a matter of dispute that after entering into service by the petitioner in the year 1964 while the scheme was still in operation he had earned three substantive promotions, therefore, there was no case of stagnation so the benefit of Junior / Senior / Super Time Selection Grade was required to be



granted.

6. So far as promotion on the post of Accounts Superintendent is concerned, it has been successfully demonstrated by the State that the said post is not part of the promotional avenue to the cadre which the erstwhile appellant belonged to and, therefore, his trying to beget promotion on the said post is uncalled for and unjustified.

7. It is in this background that the learned single Judge had this to say in paragraph 20 onwards:

“20. It appears from Annexure- E that the post of Accountant is a cadre post of Accounts Clerk and the cadre of Accounts Clerk have been divided into different parts and the post of Accountant is a Senior Selection Grade to the post of Accounts Clerk which is the 12% of the total strength of cadre.

21. From the Annexure-E it appears that there is no Selection Grade of Accountant as the post of Accountant itself is a post of Selection Grade of Accounts Clerk. It appears from the Annexure-E that the post of Accountant is equivalent to the Senior Selection Grade of Accounts Clerk which the petitioner was already given on 27.1.1980.

22. In this view of the matter, when there is no further post available in the cadre, the question of giving further promotion or the higher scale in the same cadre does not arise in the present case. Had there been a higher scale in the said cadre the question of his consideration to the aforesaid post would have arisen. The post is not available which is apparent from Annexure-6 and Annexure-E of the counter affidavit and as such the claim of the petitioner giving benefit of Junior Selection Grade and Senior Selection Grade of Accountant does not arise. This petition does not survive and the same is,



accordingly, rejected.”

8. The reason for rejection of the Writ Application cannot be said to be erroneous. In fact, it is a misplaced kind of aspiration of the erstwhile employee to walk away with higher emoluments for higher pension which egged him on to file the Writ Application and it is not a case of illegitimate denial of a right of an employee for consideration of grant of the benefits of stagnation.

9. In view of the above discussions, appeal has no merit. It is dismissed.

**(Ajay Kumar Tripathi, J)**

**(Rajeev Ranjan Prasad, J)**

Dilip, AR

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