

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15560 of 2006

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1. Sanjay Kumar Singh son of Late Kapil Deo Singh
 2. Saroja Kumari daughter of Late Kapil Deo Singh, both resident of village Naran P.O.-Pach Polhari, P.S.-Nokha (Baghaila) Distt. Rohtas at Sasaram.

.... Petitioners

Versus

1. The State of Bihar
2. The Commissioner, Agriculture Department, Bihar, Patna.
3. The Director, Agriculture Department, Bihar, Patna.
4. The Joint Director, Agriculture Department, Bihar, Patna.
5. The District Padadhikari, Rohtas at Sasaram.
6. The District Development Commissioner (D.D.C.) District-Rohtas
7. The District Agriculture Officer (Prasar) Distt.-Rohtas at Sasaram
8. The Block Development Officer (B.D.O.) Chenari, Distt.-Rohtas.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Jai Prakash Singh, Adv.
Mrs. Arti Kumari, Adv.

For the State : Mr. Anjani Kumar, A.A.G.-4
Mr. Sanjay Prasad, A.C. to A.A.G-4.

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL JUDGMENT

Date: 13-02-2017

Heard learned counsels for the petitioners and respondents.

The present writ application has been filed for a direction to the respondents to consider the promotion of the petitioner on the post of Block Agriculture Officer from the post of Village Level Worker in the District of Rohtas. The relevant claim made by the petitioner in paragraph no.1 of the writ application reads as follows:-

“That this is an application for issuance of an



appropriate writ/writs, order/orders, direction/directions to respondents to do the promotion of the petitioner on the post of B.A.O. (Block Agricultural Officer) as per direction of the State Government of Bihar, who is posted as V.L.W.(Jansevak) in Block Chenari of District-Rohtas and further be direction to respondents and authority concerned to consider the matter of the petitioner. The petitioner further prays for any other relief/reliefs for which he has duly entitled under the facts and circumstances of this case.”

Learned counsel for the petitioner submits that the petitioner was appointed on the post of Village Level Worker (Jansewak) on 27.11.1976 in the Chainpur Block of Bhabhua District. The petitioner passed B.Sc. (Agriculture) Examination in May, 1988 from Bihar Agricultural College, Sabour under Rajendra Agricultural University, Bihar. Initially, in pursuance to the order dated 31.01.1998 passed in C.W.J.C. No. 3393 of 1995 (Bibhuti Bhushan Pathak and Ors. Vs. The State of Bihar), a decision was taken to amend the provisions wherein only such VLWs (Jansewaks) were granted promotion to the post of Block Agricultural Officer, who had done B. Sc. (Agriculture) at the cost of the Government, and as per the amended provision issued vide Resolution No. 1673 dated 21.04.1999, the provision was amended to the effect that the VLWs (Jansewak) who had done B. Sc. (Agriculture) at their own



cost, would also be granted promotion to the post of Block Agriculture Officer. As per the amended provisions, such VLWs who had done B.Sc. (Agriculture) at their own cost or at the cost of the Government and who had completed more than 8 years of service would come within the zone of consideration for promotion to the post of Block Agriculture Officer or equivalent scale of ₹5000-8000/-. In pursuance to the said decision of the Government, the Deputy Secretary, Department of Agricultural, Govt. of Bihar intimated to all the District Magistrates/ District Development Commissioner and Joint Directors of Agriculture, vide Memo No. 3561 dated 04.08.2003, that in pursuance to Government Resolution No. 1673 dated 21st April, 1999, all the Jan Sewaks who did B.Sc.(Agricultural) either at the cost of Government or on their own and have completed a service of eight years or more, they would be considered to be promoted to the post of Block Agricultural Officer or equivalent scale of ₹5,000 to 8000/-. Hence all the District Magistrates/ District Development Commissioner and Joint Directors of Agriculture were directed to send the respective lists of Jan Sewak, as per seniority, in the prescribed format. The said letter clearly stipulated that the names of those Jan Sewaks, in addition to the seniority list published on 06.12.2001, who have fulfilled such eligibility criteria, be also transmitted within a period of one month.



The name of the petitioner was not transmitted by the District Magistrate, Rohtas, as a result, the petitioner could not be promoted, while the juniors to the petitioner were promoted. Subsequently, the petitioner retired on 31.08.2007 from the post of V.L.W. (Jan Sewak). Hence, it is submitted that the petitioner was wrongly denied promotion due to the inaction of respondent authorities, which is arbitrary, discriminatory and violative of Article-14 of the Constitution of India.

During the pendency of the writ application, the petitioner died on 16.03.2013, and accordingly, I.A. No. 9393 of 2013, was filed by the legal heirs of the petitioner for substituting their names, in place of the petitioner, as such I.A. No. 9393 of 2013 was allowed on 03.02.2015.

Learned Counsel for respondent nos. 2 and 3, the Commissioner, Agriculture Department, Bihar, Patna and the Director, Agriculture Department, Bihar, Patna submits that 25% posts of Block Agriculture Officer and its equivalent posts are to be filled up through promotion from eligible VLWs. Before granting promotion, a combined gradation list of VLWs is published and after finalization of the same, promotion is granted to the eligible VLWs on the basis of seniority. In the year 2001, a provisional gradation list was published, inviting objections, if any, by the Directorate of



Agriculture, Bihar Patna, as contained in Annexure-2, but name of the petitioner was not transmitted by the District Magistrate. Though, vide letter dated 3561 dated 04.08.2003, the Dy. Secretary, Agriculture Department, Bihar, Patna asked the District Magistrate to consider the matter of promotion of the VLWs to the post of Block Agriculture Officer, who had obtained B.Sc. (Agriculture) degree at their own cost or at the cost of the government and who had completed eight years of service, but even then, the petitioner's name was not transmitted. Since the petitioner had retired, hence said promotion cannot be granted to him. It is further submitted that objection was invited on preparation of tentative gradation list of VLWs by the then Director, Agriculture vide letter dated 06.12.2001, as contained in Annexure-2, but it does not appear from the writ application that the petitioner had filed any objection petition in pursuance to the same. The petitioner had also not given any details of persons junior to him, who have been promoted.

Considering the rival submission of the parties and perusing the materials on record, the appointment of the petitioner on the post of V.L.W. on 27.11.1976 is not in dispute. This is also not in dispute that the petitioner did B. Sc. (Agriculture) from Bihar Agricultural College, Sabour under Rajendra Agriculture, University. There is no pleading in the writ application that the



petitioner filed any objection, which was invited on the tentative gradation list, but the letter of under Secretary, as contained in Annexure-3, stipulates that the names of all V.L.Ws. whose names were not in the gradation list were also called for, but for reasons best known to the District Magistrate, the name of the petitioner was not transmitted, as a result of which the petitioner was not considered for promotion. Though, in paragraph nos. 12 and 13 of the writ application, it has been mentioned that the persons junior to the petitioner were promoted.

The counter affidavit filed on behalf of the respondents does not deny this fact that persons junior to the petitioner have been promoted, but keeping in view, the fact that there is nothing on record to suggest that the petitioner filed any objection with regard to non-inclusion of his name in the gradation list and the fact which has been neither denied by the petitioner nor by the respondents that post of Block Agriculture Officer has been abolished from the Schedule of Bihar Agriculture Service, the petitioner cannot now be promoted to the said post of Block Agriculture Officer. But keeping in view, the fact that the petitioner joined on the post of V.L.W. and also retired from the same post and was not granted any promotion and as claimed by the petitioner, as also the fact that the juniors to the petitioner were promoted, while resolution of the Government



was to promote the Jan Sewak to the post of Block Agriculture Officer or equivalent pay-scale of ₹5,000-8000/-, the petitioner is entitled for said scale if his juniors were given promotion or benefits of said scale.

While considering the grievance of the petitioner, this Court cannot shut its eyes to the fact that the petitioner left for the heavenly abode during the pendency of the writ application and he has now been substituted by his legal heirs. Under such circumstances, this Court finds it fit to direct the Respondent authorities to consider the grievance of the original petitioner, on presentation of a copy of this order by the legal heirs of the original petitioner and the respondent no.3 shall look into the matter, while taking into consideration, whether any person junior to the petitioner has been granted promotion or not, as also the fact, as to why, the name of the petitioner was not included in the list forwarded for being considered for grant of promotion. In case it is found that the name of the petitioner was wrongly left out and persons junior to him were granted promotion, then in such circumstance, entitlement of the petitioner in the pay-scale of ₹5000-8000/- has to be worked out. The whole exercise of decision making at the end of respondent no.3 should be completed within three months from the date of production of copy of this order. In case, the petitioner is found



entitled to grant of pay-scale of ₹5000/- to ₹8000/- the consequential benefits should be paid to the substituted heirs of the petitioner within eight weeks thereafter.

This writ application is, accordingly, disposed of.

(Dinesh Kumar Singh, J)

Amrendra/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10/05/2017

