

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.4816 of 2016

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1. Pramod Tiwari Son of Sudama Tiwari resident of Quarter No. C/3 (New)
BSEB Colony, Near Shiv Mandir, Shastri Nagar, P.S. Shastri Nagar, Town &
District - Patna

.... Petitioner/s

Versus

1. The Bihar State Power (Holding) Company Limited, Vidyut Bhawan, Bailey
Road, Patna through its Chairman Cum Managing Director
2. The Chairman Cum Managing Director, Bihar State Power (Holding) Company
Limited, Vidyut Bhawan, Bailey Road, Patna
3. The Director (HR and Administration), Bihar State Power (Holding)
Company Limited, Vidyut Bhawan, Bailey Road, Patna
4. General Manager (HR and Administration) Bihar State Power (Holding)
Company Limited, Vidyut Bhawan, Bailey Road, Patna
5. The Bihar State Power Transmission Company Limited, through its Managing
Director
6. The Managing Director, Bihar State Power Transmission Company Limited,
Vidyut Bhawan, Bailey Road, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Sr. Adv.
Mr. Shivendra Kishore, Sr. Adv.
Mr. Jai Kishor Poddar, Adv.
For the Respondent/s : Mr. Vinay Kirti Singh, Sr. Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 23-03-2017

Heard Mr. Y.V. Giri, learned Senior Counsel appearing for the
petitioner along with Mr. Shivendra Kishore, learned Senior counsel
and the advocate on record. The respondents are represented by Mr.
Ranjeet Sinha.

The parties have been heard.

The petitioner prays for appropriate direction to the respondents
for consideration of his case for regular promotion on the post of



Director, Accounts which has since been christened as Deputy General Manager, Accounts with effect from the due date which is 24.9.2006 or at least with effect from 10.6.2008 i.e. the date when the petitioner was asked to look after the post of Director, Accounts. The petitioner also prays for consideration of his case for further promotion to the post of General Manager, Accounts with effect from the due date.

Although the grievance of the petitioner stands redressed to a large extent but yet there are issues remaining and which requires a consideration.

The petitioner is a qualified Cost Accountant having obtained his qualification from the institute of Cost and Works Accountant of India and was appointed as Accounts Officer with the then Bihar State Electricity Board vide Notification dated 15.6.1993 with effect from 10.5.1993. The Bihar State Electricity Board has since been reorganized to constitute the Bihar State Power Holding Company with the North & South Distribution Companies carrying out the work of distribution. The petitioner on completion of the Kalawadhi of 6 years was promoted on the post of Deputy Director, Accounts in the erstwhile Bihar State Electricity Board vide notification No. 1021 dated 24.9.1999 and on completion of 7 years Kalawadhi on the said post, was considered for promotion on the post of Director, Accounts



on 24.9.2006. The petitioner was assigned to discharge the duties on the post of Director, Accounts vide Notification No. 364 dated 10.6.2008 and whereafter he continues on the post and there is no dispute.

In between, a disciplinary proceeding was initiated against the petitioner upon service of charge memo and as a consequence when the Departmental Promotion Committee met for consideration of the promotion cases of the Deputy Director, Accounts to the post of Director, Accounts on 6.8.2010 the case of the petitioner was put in sealed cover, while his juniors were promoted vide Annexure-4. The petitioner was handed over punishment of withholding of 2 annual increments with non cumulative effect by the order of the disciplinary authority dated 22.3.2015 present at Annexure-7. The petitioner feeling aggrieved filed a statutory appeal and while his appeal was pending consideration that his juniors were again promoted vide Annexure-9 to the post of General Manager, Accounts on 12.5.2016.

The appeal of the petitioner has since been allowed vide order passed on 29.12.2016 present at Annexure-21 and the Managing Director, South Bihar Power Distribution Company Ltd. has quashed the penalty order bearing resolution No. 291 dated 23.2.2015. In consequence of the order passed on appeal present at Annexure-21 that the case of the petitioner was considered for promotion to the post



of Director, Accounts which is now known as Deputy General Manager (Finance and Accounts) and by Notification bearing No.1913 dated 30.12.2016 present at Annexure 22, the petitioner has been promoted to the said post with effect from 10.8.2010 which is the date with effect from which his juniors have been promoted. The order at Annexure-22 thus satisfies the claim of the petitioner for promotion to the post of Deputy General Manager (Finance and Accounts) save and accept that the promotion has been made notional. The petitioner thus claims salary attached to the post since admittedly, he has functioned on that post with effect from 10.6.2008.

The other claim of the petitioner which yet remains pending is with regard to his promotion to the post of General Manager, Accounts with effect from the date his juniors have been promoted and which also has been taken note of by the respondents as is manifest from the reply to the interlocutory application filed by the respondents today which at paragraph 12 clearly mentions that the case of promotion of the petitioner to the post of General Manager (Finance and Accounts) would be considered in the next meeting of the Departmental Promotion Committee. The anxiety of the petitioner is that his juniors stand promoted and since the disciplinary proceeding so initiated against the petitioner has been set aside, there should not be any delay in consideration of his case for further



promotion to the post of General Manager (Finance and Accounts).

Having heard learned counsel for the parties and having considered the claim subsisting as also the stand of the respondents, I am satisfied that the petitioner has made out a case for indulgence. This Court thus, while directing the respondents to make payment of the salary attached to the post of Director, Accounts with effect from the date he has been granted promotion to the post of Director, Accounts i.e. 22.8.2010 would also direct the respondents to consider the case of the petitioner for promotion to the post of General Manager, Finance and Accounts with effect from the due date and since there is no opposition on principle as well taking note of the fact that the petitioner has been made to wait for all these years for the benefit claimed and in the meanwhile his juniors have been promoted, let a Departmental Promotion Committee be constituted preferably within a period of six weeks from today for such consideration.

The writ petition is disposed of with the direction aforementioned.

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.04.2017
Transmission Date	NA

(Jyoti Saran, J)

