

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1434 of 2013

In

Civil Writ Jurisdiction Case No.11874 of 2006

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1. The State Of Bihar Through The Chief Secretary, Government Of Bihar, Patna.
 2. The Commissioner - Cum - Secretary, Department Of Home Government Of Bihar, Patna.
 3. The Commandant General Bihar Home Guards, Chhajjubagh, Patna.
 4. The Deputy Commandant General Bihar Home Guards, Chhajjubagh, Patna.

... .. Respondents-Appellant/s

Versus

Md. Nazzirul Haque, Son Of Late Noorul Haque, Resident Of Village Tola Hardia, P.S. Barharia, District - Siwan

... .. Petitioner- Respondent/s

Appearance :

For the Appellant/s : AC to PAAG 2

For the Respondent/s : Mr. Binodanand Mishra, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 16-11-2017

The only question involved in this appeal is as to whether the promotion is to be governed by a rule which came into force at the time of recruitment or the promotion being made on the basis of a rule which was in existence on the date on which the vacancy had occurred. The learned Writ Court has, from paragraph 11 onward, addressed this issue and referred to the judgments of the Hon'ble Supreme Court in the cases of **Y.V. Rangaiah & Ors. v. J. Sreenivasa Rao & Ors., AIR 1983 SC 852, State of Rajasthan v.**



R. Dayal & Ors. (1997) 10 SCC 419, Arjun Singh Rathore & Ors. v. B. N. Chaturvedi & Ors., 2007 AIR SCW 6745 and Union of India & Ors. v. Tusar Ranjan Mohanti & Ors. 1995 AIR SCW 1758, and held that Rule applicable on the date of vacancy shall be the rule which would apply to the promotion and not the Rule which came into force at the time of recruitment or the promotion being made.

In our considered view, the learned Writ Court has applied the correct proposition of law based on the judgments rendered by Hon'ble the Supreme Court in the aforesaid cases. There is no error in the order passed by the learned Writ Court warranting reconsideration. The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	NA
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