

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No. 976 of 2014
IN
Civil Writ Jurisdiction Case No. 19765 of 2012**

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Rajeshwar Rai, Son of Late Kanhaiya Rai, Resident of Village- - Singha Chapra,
P.O. – Gohavilli, P.S. – Mufassil Bettiah, District- West Champaran

.... Appellant/s

Versus

1. The State of Bihar through the Director, Animal Husbandry Department, Bihar, Patna
2. The Joint Director, Animal Husbandry, Bihar, Patna
3. The Regional Deputy Director, Animal Husbandry, Bihar, Patna
4. The District Animal Husbandry Office, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Surendra Kishore Thakur, Advocate

For the Respondent/s : Mr. Utsav Kumar, AC to GA-4

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 17-04-2017

Heard learned counsels for the parties.

The order passed in C. W. J. C. No. 19765 of 2012, dated 01.03.2013, is subject matter of challenge in the present Letters Patent Appeal. The grievance or the relief, which the present appellant sought in the writ application, was for a direction upon the respondent-State authorities to grant him promotion to a class-iii post from the date his juniors had been granted promotion. Further, a direction was also prayed for to grant consequential benefit from 21.07.1989, i.e., the date the juniors had earned promotion from class-iv to class-iii post.

The Learned Single Judge after dealing with the



pleadings of the appellant and the State, came to the conclusion that no person junior to him had been granted the benefit of promotion at his cost and that, if that promotion for an arguable reason was said to be bad, it was annulled by the State-authorities. The said annulment orders were set aside in the two writ applications filed by Shyam Sunder Sharma and Vijay Kumar, which were C. W. J. C. No. 7611 of 2006 and 6761 of 2006, respectively. In other words, the cancellation of benefit of promotion did not have judicial approval.

To further negate the argument regarding the plea of the appellant that Shyam Sunder Sharma and Vijay Kumar were juniors, a supplementary counter affidavit has been filed, where in paragraph 3, the following details have been provided.

The appellant's date of first joining is indicated as 01.01.1988, and that of Shyam Sunder Sharma as 17.12.1977 and of Vijay Kumar as 01.01.1983.

In support of the above statement, the service-book of all three has also been annexed.

This factual position has not been rebutted by the appellant, despite opportunity given by this Court on earlier occasion.

The Court, therefore, comes to a considered opinion that the Learned Single Judge has committed no error either of fact or law by refusing to bite the bait that any junior was promoted at the cost of the appellant or that there was any discrimination practiced



by indulging in pick and choose and further the promotions granted to Shyam Sunder Sharma and Vijay Kumar were duly upheld by the High Court in two different orders in the writ applications, details of which have been provided in earlier part of the order.

The Learned Single Judge, however, has not closed the window of opportunity for the appellant, because he has given leeway to the appellant by observing that as and when the prescribed procedure is undertaken for grant of promotion from class-iv post to class-iii, the claim of the appellant shall also be considered, provided he fulfills the criteria of such a process.

In totality, therefore, the case of the appellant is more made than made out with regard to discrimination or violation of Article 14 and 16 of the Constitution of India.

Appeal has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	18.04.2017
Transmission Date	

