IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6253 of 2008

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1. Monako Devi ,wife of Late Kamla Prasad Rai
2. Tej Narayan Rai son of Late Kamla Prasad Rai
3. Bikramaditya son of Late Kamla Prasad Rai

All are resident of Mohalla Dhobighat , Gali No. 2 , Near Bhaskar Bhawan, Charitravan, P.S. Buxar (M) District Buxar

4. Geeta Kumari daughter of Late Kamla Prasad Rai, wife of Vinod Rai, resident of village - Kanuan P.S. Bhanwarkol District Gajipur (U.P.)

.... Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Bihar, Patna
2. The Secretary, Department of Revenue and Land Reforms, Govt. of Bihar, Patna
3. The Secretary Department of Finance Govt. of Bihar, Patna
4. The Deputy Secretary, Department of Revenue and Land Reforms Govt. of Bihar, Patna
5. The Commissioner Patna Division Patna
6. The District Magistrate Buxar
7. The Addl. District Magistrate, Buxar
8. The Deputy Collector Land Reforms Dumrao Buxar
9. The Circle Officer Brahmpur Block Buxar
10. The Circle Officer, Nauanagar Block Buxar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rana Ishwar Chandra

For the Respondent/s : AC to AAG No. 9

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 22-03-2017

1. Heard Sri Rana Ishwar Chandra , learned counsel for the petitioners and learned AC to AAG No. 9.

2. The present writ petition was filed by the original writ petitioner with a prayer to quash an order dated 16.7.2007 passed by Deputy Secretary, Department of Revenue and Land Reforms /respondent no. 4 and further prayer has been made to direct the respondents to give the petitioner benefit of the post of Circle

Inspector –cum- Kanoongo from 01.04.1995 .

3. Short fact of the case is that the petitioner superannuated with effect from 31.01.2004 as Revenue Karamchari. Thereafter, he filed a writ petition vide CWJC No. 3610 of 2005 with a prayer to direct the respondents to consider his case for promotion to the post of Circle Inspector –cum- Kanoongo on the plea that the respondent no.7 to 12 of the said writ petition were junior to the petitioner but they were given such promotion. In the said writ petition a plea was taken by the respondents by filing counter affidavit that the case of the petitioner was forwarded to the Commissioner, Revenue Department for taking appropriate decision in view of the Notification No. 326(4) dated 8.4.2005 however, the writ court vide its order dated 01.11.2006 disposed of the writ petition and held that the case of the petitioner may not be guided by the Notification which was introduced subsequently on 8.4.2005 and directed the authority concerned to take appropriate decision in the matter. In compliance with the order of the writ court passed in CWJC No. 3610 of 2005 the case of petitioner was considered and the order impugned was passed i.e. order contained in Memo No. 1072 dated 20th August 2007. By the said order the original petitioner was promoted as Circle Inspector -cum -Kanoongo with retrospective effect of 17.12.2002. Now in the present writ petition original petitioner assailed the said order and

made a prayer for directing to grant such promotion with effect from the year 1995 . During pendency of the writ petition the original writ petitioner left for heavenly abode in the month of August 2012 and thereafter an interlocutory application vide I.A. No. 1694 of 2015 was filed and by order dated 12.03.2015 legal heirs of the deceased petitioner were directed to be substituted after expunging the name of the petitioner. In this case two counter affidavits have been filed. In the supplementary counter affidavit which was filed on 8th March 2017 in paragraph no. 4 a specific stand has been taken that in compliance with order of the writ court representation of the petitioner was forwarded to the Divisional Commissioner vide letter no.902 dated 01.11.2006 who vide Memo No. 519/Est. dated 11.04.2007 granted promotion to the petitioner to the post of Circle Inspector -cum -Kanuoogo with effect from 17.12.2002. It has categorically been stated that the date from which petitioner was granted promotion was the date of promotion of one Sri Ram Chandra Prasad who was allegedly junior to the petitioner and was promoted earlier. After filing of the supplementary counter affidavit no rejoinder has been filed nor the statement made in paragraph no. 4 of the supplementary counter affidavit has been disputed.

4. After hearing learned counsel for the parties and perusing the records, the court is of the opinion that by granting

promotion with retrospective effect that too from the date when junior to the petitioner was promoted the respondents have committed no error and I do not find any defect in the same warranting interference by this court.

5. The writ petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24 -03-2017
Transmission Date	NA