

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Miscellaneous Jurisdiction Case No.1666 of 2015**

**IN**

**LPA 820 of 2014**

=====

Radha Pandey S/o- Late Baleshwar Pandey, R/o Vill- Keshopur, P.S.- Ekangarsarai  
(Telhara), District- Nalanda

.... .... Petitioner

Versus

1. Shri Anjani Kumar Singh, Chief Secretary, Government of Bihar, Patna
2. Shri Deepak Kumar Singh, Secretary, Agriculture (Special Programme)  
Department, Government of Bihar, Patna, presently Water Resources  
Department, Government of Bihar, Patna

.... .... Opposite Parties

=====

**Appearance :**

For the Petitioner/s : Mr. Ishwari Singh, Advocate

For the Respondent/s : None.

=====

**CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN**

**and**

**HONOURABLE MR. JUSTICE VIKASH JAIN**

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date: 22-06-2017

Heard learned counsel for the petitioner.

This application has been filed for initiation of proceeding  
of contempt against the opposite parties for non-compliance of the  
direction contained in the judgment dated 2.04.2015 passed by a  
Division Bench of this Court in L.P.A. No.820 of 2014.

L.P.A. No.359 of 2014 was preferred by the Area  
Development Commissioner-cum-Chairman, Gandak Command Area  
Development Agency, Muzaffarpur and another assailing the order  
dated 19.06.2013 passed by a Single Judge Bench of this Court in



CWJC No.8156 of 1995 filed by the petitioner. It appears from Annexure-1, which is an order passed by the Division Bench of this Court, that the learned Single Judge allowed the writ petition directing the respondents to promote the petitioner as Clerk with effect from 11.02.1982 and to extend subsequent time bound promotion and selection grade scales in the cadre of Clerk and to pay the arrears of salary in the promoted scales with effect from the aforesaid date within six months.

Though the Appellant Court did not find any flaw in the findings recorded by the learned Single Judge, however, it has observed that the Hon'ble Supreme Court held on many occasions that, while issuing writ of mandamus, no specific direction for appointment or promotion can be given and at the most direction could be given for considering the case for appointment or promotion, therefore, learned Single Judge could not have made positive direction for grant of promotion. Thus, the order was modified to the extent that the competent authority will consider the case of the petitioner for concerned promotion. The Letters Patent Appeal No.820 of 2014 preferred by the State Government was also disposed of in terms of the aforesaid order. Thereafter, it appears that a decision has been taken by the Area Development Commissioner-cum-Chairman, Gandak Command Area Development Agency, Muzaffarpur



observing that in view of the economic condition of the Agency and in view of the departmental directions, the petitioner and the similarly situated persons' claim cannot be considered and the claim has been rejected stating that no employee equivalent to the petitioner or his junior has been granted such promotion and, as such, the petitioner would also not entitle.

Learned counsel for the petitioner drew attention of this Court towards certain discrepancies which have been made in the order specially that due to the ban imposed by the State Government, the Agency has taken such decision.

However, from the order, it appears that on 24.04.2015 the State Government has written to the concerned that it is up to the Gandak CADA to take a decision with respect to the petitioner in accordance with law. The petitioner has also appended Annexure-5 which is a letter issued by the State Government addressed to the Area Development Commissioner-cum-Chairman, Gandak Command Area Development Agency, Muzaffarpur stating that his case would be considered at the time when the case of other similarly situated persons would be considered for such promotion. It is specifically stated that till the case of the petitioner for promotion is not considered, nobody, either equivalent to the petitioner or junior to him, should be granted such promotion.



Having perused the aforesaid order, this Court is of the opinion that there is sufficient compliance of the direction and, thus, no proceeding for contempt can be initiated in this matter.

Accordingly, this application is dismissed.

Since the petitioner has informed that he has already challenged the aforesaid order by filing a writ petition, he would be at liberty to pursue his case in the concerned writ petition.

**(Dr. Ravi Ranjan, J)**

**(Vikash Jain, J)**

V.K. Pandey/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | N.A.F.R.   |
| CAV DATE          | N.A.       |
| Uploading Date    | 29.06.2017 |
| Transmission Date | N.A.       |

