

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.93 of 2017

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1. Shailesh Kumar Sinha aged about 60 years Son of late Babu Lal Prasad Singh R/o Mohalla- Kamruddinganj, P.O. Biharsharif, P.S. Laheri, Disttr- Nalanda (Bihar) , at Present Posted as Incharge District Prosecution Officer Sadar Court Nawada, No. 94316-63452 (Mobile), Bihar.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna- 800 001.
2. The Home Secretary, Govt. of Bihar Old Secretary, Patna- 800001
3. The Director of Prosecution Govt. of Bihar Punaichak, P.O. Punaichak, Patna- 800001

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Hira Prasad Pandey, Adv. Mr. Sushil Kumar Singh, Adv.
For the Respondent/s	:	Mr. Partha Sarthi- GA4 Mr. Apurva Kumar, A.C. to AAG 4

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 05-12-2017

Heard Mr. Hira Prasad Pandey, learned counsel for the petitioner and Mr. Partha Sarthi, G.A.4 for the State.

The writ petition initially was filed questioning the promotion of one Ram Pravesh Das to the post of District Prosecution officer with the consequential prayer to direct the respondents to promote the petitioner to the said post.

A counter affidavit is filed on behalf of the respondents No.1 to 3 and in which it is stated that the said Ram Pravesh Das was given regular promotion on the post of Sub Divisional Prosecution Officer



on 26.11.2008 vide notification no. 994 with effect from 7.4.2003 and to the post of District Prosecution Officer vide memo No.3324 dated 21.4.2010 which post has been restructured as Sub Divisional Prosecution Officer. It is stated that the said Ram Pravesh Das has also been promoted to the post of Regional Prosecution Officer which post has been abolished and presently known as District Prosecution Officer. Such is the statement made in paragraphs 9 and paragraph 10 of the counter affidavit. It is further mentioned that the said Ram Pravesh Das is neither junior to the petitioner nor comes under the General Category rather he is a reserved category candidate.

It is thereafter and on receiving counter affidavit that the petitioner has shifted his stand to question the promotion of one Arvind Kumar Suman who according to the petitioner was just above the petitioner and according to him, should also have opened doors for consideration of his case for similar promotion. Since the supplementary counter affidavit filed on behalf of the respondent simply disqualified the petitioner on not qualifying for promotion as District Prosecution Officer as per statement made in paragraph 7 of the supplementary counter affidavit that Mr. Partha Sarthi was asked to clarify the statement by giving reasons. It is thereafter that a third counter affidavit has been filed by the Assistant Director and at paragraph 4 the position has been clarified. It is stated that of the 21



vacant posts of Sub Divisional Prosecution Officer 16 Sub Divisional Prosecution Officer are in the general category and have been recommended for promotion according to seniority while the rest 5 posts are reserved for Scheduled Caste candidate. It is further mentioned that the petitioner did not qualify for promotion under the General Category and thus was not recommended by the Departmental Promotion Committee on 12.9.2012 in absence of vacant post.

In view of the position clarified by the respondents in the counter affidavit filed in the present proceedings, the relevant portion of which has been discussed hereinabove, no cause for indulgence is made out on the prayer made, for in absence of vacancy in the general category, the petitioner could not have been promoted to the post of District Prosecution Officer.

The writ petition is disposed of.

(Jyoti Saran, J)

Bibhash/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.12.2017
Transmission Date	NA

