

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.274 of 2017

Arising out of L.P.A. No. 1633 of 2014

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Satya Narain Prasad, Son of Late Raghunath Prasad, Resident of Village and
P.O.-Jagapakar, Via-Areraj, P.S.-Harsiddhi, District-East Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Engineer-in-Chief (North) Water Resources Department, Govt. of Bihar,
Sichai Bhawan, Patna.
3. The Deputy Secretary to the Govt., Water Resources Department, Govt. of
Bihar, Sichai Bhawan Patna.
4. The Accountant General, Birchand Patel Marg, Patna, Patna.
5. Vigilance Investigation Bureau through the Superintendent of Police and
Vigilance Investigation Bureau, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

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

For the Respondent/s : Mr. Anjani Kumar, AAG- 4

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT



(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 29-08-2017

Heard learned counsel for the parties.

It was only pointed out that even if a criminal case was pending against the petitioner, in view of the document (Annexure-5) dated 11.09.2002 *ad hoc* promotion could have been granted to the petitioner.

We have gone through the aforesaid circular which is nothing but a circular issued by the State Government adopting the sealed cover procedure laid down by the Government of India. Even though in this circular there is a provision for granting *ad hoc* promotion but it is also indicated that *ad hoc* promotion should not be granted in cases where the allegations are serious in nature and the offences in which the delinquent employee is involved is also serious. In the present case, petitioner is involved in a criminal case for various provisions of the Indian Penal Code and Prevention of Corruption Act and if taking note of the seriousness of the corruption cases pending against the petitioner if his case was not considered for A.C.P., we see no error in the order.

Even though learned counsel tried to indicate that in case of certain other employees *ad hoc* promotion was granted, petitioner cannot claim the said benefit as in the case



of the petitioner we find that he was involved in serious criminal case under the Prevention of Corruption Act and benefit illegally granted to another employee cannot be a ground for perpetuating an illegality and claiming negative equality. As laid down by the Supreme Court in the case of **State of U.P. Vs. Raj Kumar Sharma- (2006) 3 SCC 330**, benefit illegally granted cannot be claimed as a matter of right by applying the principle of negative equality.

In view of the above, the review application stands dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
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