

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14005 of 2017

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Santosh Kumar Upadhya S/o Late Awadhesh Narayan Upadhya R/o Raj Laxmi Bhawan, Sitarambag, Japalinganj, Ballia (U.P) at present residing at Nyay Vihar Colony, Siwan, P.S. - Siwan, District - Siwan.

.... Petitioner/s

Versus

1. The Registrar General, Honble The High Court of Judicature at Patna.
2. The State of Bihar through the Principal Secretary, Department of Personal & Administration, Govt. of Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Dr. Anshuman, Adv.
For the High Court : Mr. Mrigank Mauli, Adv.
Mr. Sanjay Kumar, Adv.

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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: 25-01-2018

The writ application preferred by the petitioner, who is a Judicial Officer, is for a direction upon the respondent authorities for granting him benefit of seniority of promotion from the year 2012 for the reason that the order of punishment of withholding the promotion for a period of three years ended on 07.07.2012.

The petitioner is feeling the pinch because some of his batch-mates have stolen a march and have also become Additional District Judge in Fast Track Court whereas the present petitioner is still at the level of a Sub Judge or Civil Judge, Senior Division.



Since none of the juniors to the present petitioner had earned order of punishment of the kind imposed upon the present petitioner, therefore, their consideration for promotion when it became due or when the Departmental Promotion Committee met cannot be a subject matter of grievance.

A counter affidavit on behalf of the High Court Administration has been filed. They have taken a plea that the Selection and Appointment Committee of the High Court considered the case of promotion of the petitioner for the year 2013-14 because no exercise was done earlier for the year 2011-12 and 2012-13. In the exercise for the year 2013-14, petitioner was not found fit for promotion on account of poor disposal of work between the period from 2009-13. This decision of the Selection and Appointment Committee was accepted by the Standing Committee.

The petitioner made a representation against the decision of the Selection and Appointment Committee but the same stood rejected even by the Standing Committee on 01.09.2015.

For the year 2014-15, claim of the present petitioner along with 16 other officers was taken up but again their performance was found to be sub par, therefore, no decision was taken for extending the benefit of promotion. The promotion came to be granted in the year 2015 after having a re-look of the performance as well as the



explanation offered by the petitioner in relation to poor performance for the year 2014-15 and the benefit of promotion thereafter was extended.

If the petitioner did not have the eligibility for the years in question for which he is seeking benefit of promotion then he cannot make a grievance through the Writ Court that he has been denied promotion for no apparent, cogent and valid reason. The details of the decision and narration of facts along with eligibility required for the purposes of consideration of grant of promotion has been indicated in the counter affidavit of the High Court.

We are satisfied that there was no violation of Article 14 or 16 nor any mischief has been played in not extending the benefit of promotion which he expects from the year 2012.

Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Devendra/Arjun

AFR/NAFR	NAFR
CAV DATE	NA
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