

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9472 of 2001

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Braj Nandan Jha

.... Petitioner/s

Versus

The State of Bihar & Ors

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. CHANDRA BHUSHAN DAS

For the Respondent/s : Mr. (SC10)

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 08-03-2018

No one appears for the petitioner. Counsel for the State is present.

Matter relates to grant of promotion to the post of Sub Inspector of Police. The petitioner who was appointed as Constable on 03.05.1965 and he was promoted to the post of Assistant Sub Inspector of Police on 20.10.1977. The petitioner had successfully passed the departmental qualifying test in M.C. in the year 1969 vide Memo No.9544/A-M-4-1-70 which had taken effect from 09.09.1970. The petitioner had also completed the ASI course at police training centre at Hazaribagh in the year 1975 and he had passed all subject of P.T.C. and next promotion was due in the year 1980 but the same was not recommended by the authority.

As claimed that there is no departmental proceeding nor any proceeding was pending against the petitioner for debaring his consideration for promotion, but the counter affidavit of the State reflects different a picture with respect to the petitioner from their it appears that the petitioner earlier filed writ application before this Court in C.W.J.C.



No.10679 of 1995 for the same relief for promotion to the post of Sub Inspector which was disposed of on 11.02.1997 directing the DGP and Inspector General of Police to lay the matter before the Promotion Supplementary Selection Board and take decision in accordance with law. Accordingly, the matter of the petitioner was placed before Committee on 3.11.1988 and was found that the petitioner was not fit for promotion due to the pendency of the criminal case. A departmental proceeding was initiated and after completion of the same, the case of the petitioner was again placed for consideration of promotion in the meeting dated 14.11.2000 this time Special Selection Board having perused the service particulars and the relevant files of the petitioner, found in criminal trial which was related to the custodial death, in which petitioner was given the benefit of doubt, and also recorded that the departmental proceeding was also initiated against the petitioner bearing No.96 of 1985, in the light of the proving grave charge of misconduct, had recommended for dismissal of the petitioner but the DIG, Purnea allowed the petitioner continue in his duty and on that account, the claim of promotion to next grade was kept in abeyance and the Board also recommended to DGP and Inspector General of Police to review the order passed in the departmental proceeding.

In such view of the matter, as per the recommendation of the Board, the Director General of Police and Inspector General of Police, Bihar Patna passed the order for fresh departmental proceeding related to the murder of the civilian in police custody at the same time, it was intimated to Superintendent of Police for fresh departmental proceeding against the



petitioner vide Memo No.2110 dated 12.06.2001.

In view of the fact that the petitioner was an accused in the custodial death though benefit of doubt has been given in the criminal cases, but in the matter of promotion, no one has a right to get promotion but has right of consideration of promotion, the Board took, on account of the custodial death of a citizen in which he has been given the benefit of doubt, recommended to for fresh departmental proceeding in the event the DIG, Purnea allowed him to continue in the service which compelled the DGP Bihar to pass order for fresh enquiry against the petitioner. In such view of the matter, this Court does not find any merit to issue the writ of Mandamus directing the petitioner for promotion to the next grade of post of Sub Inspector of Police.

Accordingly, this writ petition is dismissed.

(Shivaji Pandey, J)

Sanjeev/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

