

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2640 of 2011

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BALMIKI KUMAR S/O LATE SATYA NARAYAN SINGH VILLAGE-
GHANSURPUR, P.O- SALIMPUR, P.S- BAKHTIYARPUR, PATNA
... Petitioner

Versus

1. THE STATE OF BIHAR THROUGH THE CHIEF SECRETARY GOVT. OF BIHAR, PATNA.
 2. THE D.G. CUM I.G. OF POLICE BIHAR, PATNA.
 3. THE D.I.G. OF POLICE, MAGADH RANGE GAYA.
 4. THE S.P. NAWADA ... Respondents
- =====

Appearance :

For the Petitioner : Mr. Sanjay Kumar, Adv.
For the Respondents : Mr. Deepak Sahay Jamuar, AC to AAG IV

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL JUDGMENT

Date : 22-11-2018

Heard learned counsel for the petitioner and the learned counsel for the State.

The grievance of the petitioner is that he was appointed as a Constable in pursuance to Advertisement No. 1 of 1998. He participated in the selection process, but, was not appointed. Thereafter, the petitioner moved this Court in C.W.J.C. No. 1304 of 2003 along with one Ravindra Kumar Singh and by order, dated 29.09.2004, this Court allowed the writ petition with a direction that if the petitioner possesses the requisite height in his category if the vacancy existed a direction was issued for consideration of the petitioner. In pursuance thereto the petitioner was remeasured and appointed on 29.12.2005. The petitioner in the present writ application seeks a direction for grant of seniority/increment from the



date when other persons have been appointed in pursuance to Advertisement no. 1 of 1998 with effect from 05.01.2000, as has been given to other persons. He submits that Ravindra Kumar Singh who had moved this Court along with the petitioner in C.W.J.C. No. 1304 of 2003 has been granted seniority/increment by Nawadah District Order No. 148 of 2012 with effect from 05.01.2000, dated 28.01.2012, as contained in Annexure 9. He, further, submits that the Bihar State Litigation Policy, 2011, mandates all similarly situated employee should be granted the benefit of covered matters and if orders of the Court has been implemented in the case of certain litigants, it should be implemented in respect of all other identically situated persons and refers to a Full Bench Judgment in the case of **Amresh Kumar Singh Vrs. The State of Bihar & Ors.**, since reported in **2018(2) P.L.J.R., 929**, special reference being made to paragraph 8.

Learned counsel for the State has filed its counter affidavit wherein Nawadah District Order No. 86 of 2010 has been placed at Annexure 'E' in which a decision has been taken to grant the benefit of seniority and increment to all persons appointed in pursuance to Advertisement No. 1 of 1998 with effect from 05.01.2000 except the period during which they have not worked would be counted as no work no pay. At paragraph 8, it has been stated, in the counter affidavit, that steps are being taken to decide the seniority of the



petitioner and to provide increment, but, he would not be entitled to salary for the said period between 05.01.2000 to 28.12.2005 in view of the order, dated 21.08.2009, passed in C.W.J.C. No. 10253 of 2009.

Learned counsel for the petitioner does not press for payment of salary, but, seeks seniority and increment from the date the other Constables have been given who were appointed in pursuance to Advertisement no. 1 of 1998.

Considering the facts and circumstances, the fact remains that some persons, who had joined later, like the petitioner, have been granted seniority/increment and, thus, in view of the Bihar State Litigation Policy, 2011, which mandates all similarly situated employees should be granted the benefit of covered matters and, thus, there is no reason to go into the legal question involved as the case of the petitioner is covered by the decision as placed by the learned counsel for the petitioner in Annexure 9 and the Nawadah District Order No. 86 of 2010, as contained in Annexure 'E' of the counter affidavit also stipulates the same.

This writ application is allowed with a direction to respondent no. 4, the Superintendent of Police, Nawadah, to consider the case of the petitioner as per the Bihar State Litigation Policy, 2011, granting similar benefit to the petitioner as granted in respect of other



identically situated persons, within a period of three months, from the date of receipt/production of a copy of this order.

(Nilu Agrawal, J)

Shamshad/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	01.12.2018
Transmission Date	N/A

