

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12149 of 2005

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Prabhunath Tiwari son of Kedar Tiwari resident of village Panditpur P.S. Mairwa
Dist. Siwan.

.... Petitioner/s

Versus

1. The State of Bihar
2. The Engineer-in-Chief Additional Commissioner-cum-Secretary Road Construction Department Patna.
3. The Superintending Engineer, Road Construction Department, Saran Circle, Hajipur
4. The Executive Engineer Road Division Siwan
5. The Deputy Secretary Road Construction Department Bihar Patna.
6. The Sub Divisional Officer Road Sub-Division Maharajganj Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Alok Anand, Advocate
Mr. Gaurav Govind, Advocate
For the Respondent/s : Mr. (GP2)

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 22-02-2018

Heard counsel for the petitioner.

2. This application has been filed praying for quashing the memo no. 65 dated 04.02.2005 and memo no. 198 dated 04.03.2005 whereby and where under the respondent authorities after calculating the admissible dues of the petitioner for discharging the duties on the higher post in Class III has paid the arrears difference arising out of the said calculation to the petitioner. The payment has been made for the period 29.01.1996 to 21.08.1997.

3. It is submitted by the petitioner that the same does not take care of the petitioner's grievance as he discharged the duty on the



higher post till much later than 21.08.1997. The other reliefs for which the petitioner has agitated his grievance in C.W.J.C. No. 5815 of 1999 and in C.W.J.C. No. 7316 of 1997 is that for the purpose of filling up the Class III Post in the 50 % quota by way of promotion from class IV employees, the respondents are not taking any steps in the matter.

4. On 15.11.2010 the respondent-State has filed a supplementary counter affidavit wherein specific stand of the State was that limited competitive examination was conducted for promotion from Class IV Post to Class III post. The examination was conducted by the Staff Selection Commission pursuant to Advertisement no. 01-2003, 404 and 506. The copy of the advertisement has also been placed on record in the supplementary counter affidavit filed on behalf of the respondent no. 4.

5. It has been submitted in the said affidavit that the records available in the office of the respondents shows that the petitioner himself has chosen not to appear in the limited competitive examination and hence his claim for promotion to the Class III post from Class IV post is not maintainable. No rejoinder to the said counter affidavit has been filed though the same has been filed in November, 2010.

6. It appears that since the petitioner himself has not



participated in the promotion process and now he prays for a direction regarding the conduct of the examination for promotion, the prayer has become infructuous and is not maintainable insofar as, the claim of the petitioner is disputed and learned counsel for the petitioner is not in a position to point out why and on what basis he claims for the difference of arrears of the salary for the period beyond 21.08.1997.

7. The respondent authorities in compliance of the order passed in C.W.J.C. No. 5815 of 1999 have already calculated the admissible dues of the petitioner as noticed above.

8. Since the learned counsel for the petitioner is not able to point out any material on the basis of which he claims the arrears for the period beyond 28.01.1997, no further directions can be issued in this regard.

9. Writ petition is dismissed, with the aforesaid observations.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	27.02.2018
Transmission Date	

