

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8393 of 2016

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Alok Kumar Singh S/o Mahendra Prasad Singh, resident of
Village- Kasthara, P.O.+ P.S.- Vidyapati Nagar, District-
Samastpur.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home (Police) Government of Bihar, Patna.
2. The Principal Secretary, Department of Home (Police), Govt. of Bihar, Patna.
3. The Principal Secretary, Department of General Administration, Govt. of Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The A.D.G. headquarter, Law and order, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s	:	In Person Md. Rohit Kumar, Advocate Mr. Manish Kumar No.13, Advocate
For the Respondent/s	:	Mr. Anil Kumar

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT
Date : 30-11-2018

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

2. In this case, the petitioner is seeking relief of *mandamus*, commanding the respondents to rectify and upgrade the position/serial no. of the petitioner from the seniority list prepared by the respondents in the year 2013 and also direct the



respondents to grant promotion counting the service of the petitioner from the year 2005-06 within the category of 50% of total existing vacancy.

3. The petitioner entered into the service as Sub-Inspector in 1994 batch and was promoted on 05.08.1997 on the post of Inspector on the basis of President Medal for gallantry award by the President of India. After a gap of 13 years, the petitioner has been granted the promotion on the post of Deputy Superintendent of Police in February, 2011 whereas he ought to be promoted on the said post with effect from 2005-06 on the principle of 50% departmental quota and submits that he has wrongly been given the seniority from 2011 whereas he ought to have been given the seniority from the date the vacancy occurred meant for the promotees available for him.

4. The petitioner has drawn the attention of this Court to the Gazette Notification of Bihar Police Service Cadre Rules, which provides, at the level of Deputy Superintendent of Police, the post will be divided in the manner that 50% will be go for the direct recruitees and rest 50% posts would go to the promotees and the promotion has to be effected from the level of Inspector or Sargent Major and Subedar.



5. It appears from the record that the Police service consists of four levels; (i) Deputy Superintendent of Police, (Entry level) (ii) Senior Deputy Superintendent of Police (iii) Additional Superintendent of Police and (iv) Staff Officer (Apex post).

6. It has further been submitted by the petitioner that on account of his gallantry award he was granted the promotion on the post of Inspector and for grant of promotion to the level of the Deputy Superintendent of Police, the seniority list was prepared, he has been granted promotion in the year 2011. He further submits that in all levels there should be a bifurcation of 50% for direct recruits and promotees and accordingly, those who have been promoted on the grade of entry level of Deputy Superintendent of Police and in that manner the next level of promotion should be granted to him, whereas the Government has misdirected and not granted the benefit in terms of the Gazette Notification, which itself reflects that there will be a vertical bifurcation of 50% posts in all levels.

7. Learned counsel for the State submits that at the entry level 50% - 50% posts will be divided for the direct recruits and promotees, but the subsequent level this process cannot be applied on account of fact that all the persons from



direct recruitees and promotees became Deputy Superintendent of Police, they constitute one class and on the basis of their seniority the next level of promotion is granted. There is no provision for appointment through direct recruitees but all will get the next level or third level on the basis of promotion.

8. Having considered the rival contentions of the parties, the basic question emerges for consideration as to whether the petitioner should be granted the seniority from the date when the vacancy has occurred for the direct recruitees or from the entry level. The petitioner has drawn the attention of this Court to the different circulars and resolutions, by which the he tried to give an impression that he has wrongly been granted the benefit of seniority from the date he has been promoted as Deputy Superintendent of Police i.e. in the year 2011, but he should be given the benefit from 2005-06.

9. As the petitioner is seeking the relief of *mandamus*, first he will have to approach the authority concerned i.e. Principal Secretary, Department of Home (Police), Bihar, Patna, for redressal of his grievance, which has been claimed in the present writ petition.

10. In such view of the matter, this Court directs the



petitioner to file a fresh representation bringing all the fact including circulars and notifications to the notice of the Principal Secretary, Department of Home (Police), Bihar, Patna, who will examine all aspects of the matter, if required the petitioner may give personal hearing, and take decision in accordance with law within a period of three months from the date of filing representation by the petitioner.

11. With the aforesaid observations and directions, this writ petition is disposed of.

(Shivaji Pandey, J)

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AFR/NAFR	N.A.F.R
CAV DATE	N/A.
Uploading Date	11.12.2018
Transmission Date	N/A

