

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12711 of 2017

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Poonam Singh W/o late Jai Prakash Singh residing at Flat No. 406,
Priyambika Apartment, Vijay Nagar, Rukanpura, Bailey Road, P.S. -
Rupaspur, Town & District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Principal Secretary, Department of Home, Bihar.
3. Director General Prosecution, Bihar, Patna.
4. Deputy Director Law, Home Department, Prosecution Directorate, Govt. of Bihar, Patna.
5. Assistant Director, Headquarter, Home Department, Prosecution Directorate, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajni Kant Jha, Adv.
For the Respondent/s : Mr. Md. N.H. Khan-SC1
Mr. Babita Kumari, AC to SC1

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 12-10-2018

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

In this case, the petitioner is challenging the order
contained in Memo No. 166 dated 24.2.2015, whereby and
whereunder, the prayer of the petitioner for grant of promotion to
the post of Divisional Prosecution Officer has been rejected on the
ground that by the time the notification was published, he was
already superannuated from service.

The plea has been taken that all process for promotion
was already taken place, he was found fit for promotion, even the
approval of the Chief Minister was obtained on 30.12.2013 but,



the actual notification for promotion was notified on 3.2.2014 after his retirement on 31.12.2013 and, thus, he has wrongly been deprived of granting promotion to the aforesaid post.

The short fact of this case is that the petitioner has joined the post of Assistant Public Prosecution on 2.4.1984, he was promoted to the post of Sub-Divisional Prosecution Officer on 7.4.2003 and his promotion to the post of Divisional Prosecution Officer was due and after 7.4.2013, as the seven sanctioned posts of Divisional Prosecution officer were lying vacant, the Home Department, vide letter dated 8.10.2013, sent a requisition to the Public Service Commission for holding the meeting of Departmental Promotion Committee for consideration of suitability of the petitioner and others for promotion to the post of Divisional Promotion Officer. The Departmental Promotion Committee conducted its meeting on 18.12.2013, the petitioner was found suitable for promotion which was sent to the Principal Secretary, Home Department on 18.12.2013 itself, the Hon'ble Chief Minister granted approval on 30.12.2013 but, before issuance of the final notification, he got superannuated on 31.12.2013. Thus, only ground has been taken in the impugned order as well as in the counter affidavit that by the time the notification for promotion was published, he was already



superannuated from service. There is nothing on record to show that any adverse matter was/is standing against the petitioner, only on account of administrative reason, the due notification could not be published when entire process was already completed for grant of promotion to the petitioner.

In that view of the matter, the impugned order cannot be allowed to survive and the same is quashed.

This Court directs the authority concerned to grant promotion to the petitioner from the date his juniors have been granted the said benefit but, the same will be notional one, only the petitioner will be entitled to the benefit for payment of retiral dues. Accordingly, this Court directs the authority concerned to give promotion to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

In the result, this writ application stands allowed to the extent indicated above.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.10.2018
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