

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9628 of 2010

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1. Shiv Ratan Prasad S/O Late Ram Jatan Prasad R/O Vill., P.O. And P.S. Forbesganj, Distt.- Araria

.... Petitioner/s

Versus

1. The State Of Bihar, Through Its Chief Secretary, Old Secretariat Building, Patna
2. The Secretary In The Personnel And Administrative Reforms Department, Govt. Of Bihar, Old Secretariat Building, Patna
3. The Under Secretary, In The Personnel And Administrative Reforms Department, Govt. Of Bihar, Old Secretariat Building, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. D.K. Sinha, Sr. Advocate.
Mr. Shanti Pratap

For the State : Mr. Md.R. Haque, SC 10
Mr. Md. Obaidullah, AC to SC 10

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 16-03-2018

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

The petitioner was appointed as Deputy Collector and was posted at Chaibasa on 27.10.1992. He was given the additional charge of District Supply Officer, Supaul vide order dated 12.2.1993 which was passed by Secretary Civil Supply but on 17.9.1993 the District Magistrate replaced the petitioner and in his place vide order dated 17.9.1993 appointed Sri Gangadhar Singh as District Supply Officer.

Being aggrieved by the action of the Collector, the petitioner challenged the posting of new person, namely, Sri



Gangadhar Singh vide C.W.J.C. No.10117 of 1993 and the same was allowed vide order dated 4.2.1994 and thereby he again assumed the charge of District Supply Officer. The petitioner was granted senior selection grade on 1.4.1998 but the department, on 11.8.2001 decided to initiate a departmental proceeding for his conduct as District Supply Officer during the period 1992-93.

The case of the petitioner for promotion was kept in a sealed cover which was challenged by him in C.W.J.C. No.14247 of 2004 which was disposed of vide order dated 7.3.2006. The petitioner again filed writ petition vide C.W.J.C. No.9075 of 2015 making a prayer that his case for promotion be considered which has been kept in a sealed cover which was disposed of vide order dated 18.1.2006 giving direction to conclude the departmental proceeding without delay.

The enquiry proceeding was conducted. The Enquiry Officer submitted its enquiry report on 8.10.2005. In pursuance thereof the petitioner was inflicted punishment of stoppage of three annual increments for the period 1992-93.

In the meantime, vigilance case was lodged for the same allegation on 31.1.2005 which was registered as Case No.1 of 2005 and after that Departmental Promotion Committee meeting



was held on 4.4.2006. The matter of promotion of the petitioner was not taken up on account of his arrest in the aforesaid vigilance case. The police submitted the charge sheet on 26.4.2006 which led to issuance of order of suspension dated 8.6.2006. Against that the petitioner filed C.W.J.C. No.7062 of 2006 making a prayer for quashing the suspension order which was allowed there by the order of suspension was quashed vide order dated 29.8.2006.

Against the order of punishment the petitioner filed writ petition vide C.W.J.C. No.2535 of 2006 challenging the order of punishment of stoppage of three increments which was dismissed vide order dated 19.3.2007. Against that L.P.A. No.351 of 2007 was filed and the same was dismissed vide order dated 8.5.2007 with a liberty to challenge the resolution before the appropriate authority. Petitioner took steps but his case of promotion was considered and kept in a sealed cover against that the petitioner filed C.W.J.C. No.7966 of 2007. The same was dismissed vide order dated 27.11.2008 with a direction that his case should be considered in the next meeting of Departmental Promotion Committee (Annexure-2). Against that order petitioner filed LPA No.86 of 2009 (Annexure-2) which was dismissed vide order dated 3.3.2009. The petitioner filed a



representation dated 2.4.2009 requested that in view of the resolution dated 11.9.2002 drawing attention specifically to Clause 2(iii) and (vi) requested to grant adhoc promotion which stipulates that charges are not serious in nature and having no public interest involved, the employee during the pendency of the case would be granted the promotion. The representation of petitioner was not considered and as such the petitioner filed writ petition vide C.W.J.C. No.8304 of 2009 which was disposed of on 20.7.2009 (Annexure-5) in which the Court has directed to consider the case of the petitioner in terms of the Government circular dated 11.9.2002.

In view of the direction issued by this Court the representation of the petitioner was rejected by the authority vide order dated 27.9.2004 refusing to grant the benefit of adhoc promotion in view of allegation made against him of corruption and fraudulent transaction and rejected the claim of the petitioner. Against that the petitioner again approached this Court in C.W.J.C. No.11940 of 2009 to quash the order dated 27.8.2009, this Court refused to grant relief to the petitioner and the same was rejected.

The case of the petitioner was again considered for promotion in the proceeding dated 7.12.2009 and his case was



kept in a sealed cover. Further the case of promotion was placed for consideration before the Departmental Promotion Committee and Departmental Promotion Committee vide its proceeding dated 13.4.2010 again the result of the petitioner for promotion has been kept in a sealed cover. Lastly submitted that certain persons have been granted the benefit of the scale of pay of Rs.37,400-67,000 in the grade pay of Rs.8700 (Annexure-10) and similarly the petitioner should also be granted the same benefit to the petitioner.

Learned counsel for the petitioner submits that at no stage the Court has considered this aspect of matter, when the petitioner was entitled for promotion, no criminal case or departmental proceeding was pending against him, as because of subsequent lodging of criminal case would not make him disentitled for promotion and as such this Court should issue a writ of mandamus in favour of the petitioner either he should be granted promotion as has been unnecessarily having been deprived of the same, whereas learned counsel for the State submits that petitioner has tested his fortune by approaching this Court from time to time and all the time the Court has refused to grant the relief on account of pendency of criminal case where serious allegation of manipulation and defalcation of



Government money has been made against him and petitioner has not brought a new fact which could compel this Court to change its view in graft case and grant him relief.

Having given anxious consideration it appears that petitioner is frequently coming to this Court and testing his patience as every time returning with empty hand, knowing fully well the result of his case/as result of his promotion has been kept in a sealed cover. Every time the petitioner is coming making prayer for opening the sealed cover but receive negative result, at present there is no change of any situation.

In such view of the matter, it is not possible for this Court to come out and give direction in favour of the petitioner for opening the sealed cover where the fate of the petitioner for promotion has been kept in the sealed envelop.

This Court does not find any merit in this writ petition. It is accordingly dismissed.

Vinay/-

(Shivaji Pandey, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.3.2018
Transmission Date	NA

