

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5631 of 2006

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JANARDAN PRASAD SINGH, SON OF SHIV LAL SINGH, RESIDENT OF VILLAGE ALIPUR
DIH, PO BISAI BIGHA, POLICE STATION PARWALPUR, DISTRICT NALANDA AT
BIHARSHARIF AT PRESENT POSTED AS HA VILDAR IN BMP 14, PATNA

.... Petitioner

Versus

1. THE STATE OF BIHAR THROUGH THE CHIEF SECRETARY, GOVERNMENT OF
BIHAR, OLD SECRETARIAT, PATNA
2. DIRECTOR GENERAL CUM INSPECTOR GENERAL OF POLICE, BIHAR, PATNA
3. IG, MILITARY POLICE, BIHAR, PATNA
4. DIG OF POLICE BMP CENTRAL ZONE, PATNA
5. COMMANDANT, BMP 3, BODH GA YA

.... Respondents

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Appearance :

For the Petitioner : Mr. Ram Hriday Prasad, Advocate
Maruti Kumari, Advocate

For the State : Mr. Addl. Advocate General 4

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 15-03-2018

Heard learned counsel for the petitioner as well as learned
counsel for the State.

2. The writ petition has been filed claiming shifting the
date of promotion of the petitioner in the rank of Havildar from
2003 to 1999 from the date when his juniors such as Havildar
Ramanand Paswan and Constable Sajan Paswan have been given
promotion to the post of Havildar.

3. The undisputed pleadings of the case is that by virtue of
one Departmental Enquiry proceeding no. 3/1994 conducted against
the petitioner he was awarded punishment equivalent to one black
mark and therefore under the Rules he was disqualified for a period
of three years. Admittedly, up till 1997 the petitioner could not have



considered for promotion as Havildar as he had been awarded one black mark in relation to the said departmental proceeding. The petitioner claims that since the effect of that punishment lapsed in the year 1997 itself, thereafter he was entitled to be considered for promotion to the post of Havildar as also for being included in the Senior Promotion Course (SPC) list. He relies upon Rule 660A of the Bihar Police Manual to submit that the Superintendent and the higher authorities in the Force are under obligation to review the list of such Naiks/Constables which should be arranged according to the date of passing the senior leaders course and select those who are fit for promotion. On the basis of said Rule. The petitioner's counsel submits that his case should have been considered for promotion the post of Havildar in the year 1997 itself, when he had become eligible by virtue of lapse of the effect of the punishment arising out of the Departmental Proceeding No. 3/94. He has pointed out that in the year 2001 itself he had made his representation through the Bihar Police Men's Association but there was no response from the authorities.

4. Learned counsel for the State, on the other hand, submitted that it is specific stand of the respondent authorities that the Board for considering the eligible candidates for being included in the SPC was last constituted in 1996, when admittedly by virtue of



Proceeding no. 3 of 1994, the petitioner was not found eligible for consideration as three years had not lapsed.

5. He further submits that after 1996, the Board was again constituted only in the year 2002 in which petitioner was enlisted and sent for SPC. He draws attention of the Court towards Rule 684(2) of the Bihar Police Manual, 1978 which mandates that “*the constable selected for promotion to the rank of havildars (or L/Naik and Naik) should undergo a promotion course of six months which will include techniques of Assistant Sub-Inspector, they shall undergo six months training course.*” In reply the claim that one Sajan Paswan, junior to the petitioner, has been promoted prior to the petitioner, counsel for the State submits that there was a bar for consideration of petitioner’s candidature by virtue of the punishment awarded to him in Departmental proceeding no. 3/94.

6. Admittedly, as per the provisions of the Bihar Police Manual, 1978, the promotion, claimed by the petitioner, can only be granted to the personnel, who has done the senior leaders course according to rule 684(2) of the Manual. Stand of the respondent police authorities appears justified that the petitioner was sent for SPC in the year 2002 and on completion of the course, his case for promotion to the post of Havildar was duly considered in 2003, so his claim for shifting the promotion in the rank of Havildar from



2003 to 1999 is unsustainable in view of the provisions of the rules of the Manual since till then he had not completed the course.

7. Having heard the parties and considering the materials on record, this Court finds the writ petition is devoid of merit and is dismissed accordingly.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	
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