

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 966 of 2015

Along with

Interlocutory Application No. 1945 of 2018

=====

Degamber Kumar Dwivedi Son of Late Munersshwar Dubey resident of Village-
Shikharua, Jamui, P.O- Sonapur, P.S.- Jamui, District- Jamui (Bihar).

.... Petitioner/s

Versus

1. The State of Bihar through the Principle Secretary, Human resource Development Department, Government of Bihar, Patna.
2. The Principle Secretary, Human Resource Development Department, Government of Bihar, Patna.
3. The Director Secondary Education, Bihar, Patna.
4. The Regional Deputy Director of Education, Munger, Bihar.
5. The District Education Officer, Jamui, Bihar.
6. The Chairman , Staff Selection Commission, Patna, Bihar.
7. The Secretary, Staff Selection Commission, Patna, Bihar.

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar Sinha,
Advocate

For the Staff Selection Commission : Mr. Satyabir Bharti, Advocate
(Respondents No. 6 & 7)

For the State : Mr. Mrigendra Kumar, A.C. to G.A. 4
(Respondents No. 1 to 5)

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 02-07-2018

Re.: Interlocutory Application No. 1945 of 2018

The Interlocutory Application has been filed on behalf of respondents no. 6 and 7, i.e., Bihar Staff Selection Commission (hereinafter referred to as the ‘Commission’), praying for recall of the order dated 19.02.2018, by which cost of Rs. 5,000/- has been imposed on them along with the State.



2. Learned counsel for the Commission submitted that in the previous round of litigation, i.e., C.W.J.C. No. 3320 of 2007, which was disposed off by order dated 11.08.2011, the petitioner's case was directed to be forwarded for consideration by the official respondents to the Commission for consideration. It was submitted that pursuant to the same, the respondent no. 4 had communicated to the petitioner on 22.09.2011, that requisition for promotion from Class IV to Class III post has been sent to respondent no. 3, and that the petitioner was also at liberty to take part in the limited examination in terms of the advertisement by the Commission. It was submitted that the same was taken note of by the Court in M.J.C. No. 4786 of 2012, which was disposed off by order dated 21.08.2013, in which it was observed that the Court was satisfied from the show cause filed by the respondent no. 4, on the basis of the aforesaid communication dated 22.09.2011. Learned counsel submitted that in such background, the Court had directed the petitioner on 29.01.2018, to file supplementary affidavit with regard to what steps he had taken pursuant to the advertisement by the Commission. Learned counsel submitted that no such supplementary affidavit has been filed on behalf of the petitioner and, thus, in absence of the same, no relief could be granted to the petitioner. It was, thus, prayed that the Court may recall the order imposing cost



of Rs. 5,000/-.

3. Having considered the matter, the Court finds that the Commission has made out a case for recall of the order of the Court. Accordingly, the direction to pay cost of Rs. 5,000/- against the Commission in order dated 19.02.2018, stands recalled.

4. Interlocutory Application No. 1945 of 2018, stands disposed off.

Re.: Civil Writ Jurisdiction Case No. 966 of 2015

5. The petitioner has moved the Court for the following reliefs:

“That the present writ petition is being filed for direction upon the concerned respondents particular respondents No-3, 6 & 7 to promote the petitioner on the post of Class-III employee from the Class-IV employee and pay all the consequences monetary benefits on the date petitioner promoted on Class-III post and also to act according the previous orders of this Hon’ble High Court.”

6. In view of what the Court has noted in the earlier order, the petitioner is aggrieved by non implementation of the order dated 11.08.2011 in C.W.J.C. No. 3320 of 2007, with regard to the authorities forwarding his case for consideration to the Commission and the authorities considering the case and intimating to the petitioner that they had already forwarded the requisition for granting promotion to the higher authorities and also intimating to



the petitioner that he was at liberty to apply pursuant to the advertisement by the Commission, which was brought on record by the authority, when the petitioner alleged non-compliance of the order dated 21.08.2013 in M.J.C. No. 4786 of 2012 and the Court being satisfied that the case of promotion of the petitioner was considered and taking note of the communication dated 22.09.2011, the contempt application was disposed off, this Court finds that in absence of the petitioner having made any application for taking part in the limited examination to be conducted by the Commission, there is no question of any non implementation of any previous order of the Court. It was submitted by learned counsel for the Commission that the last date for filling application was 10th March, 2011, but the petitioner did not apply. Such contention has not been controverted by learned counsel for the petitioner.

7. In view thereof, the writ petition stands disposed off with liberty to the petitioner to take appropriate steps, as and when the occasion arises in future, for being considered for promotion to Class III post, in accordance with law.

(Ahsanuddin Amanullah, J.)

Anand Kr.

AFR/NAFR	
U	

