

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10334 of 2015

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Nathun Chaudhary S/o Late Jagdeep Chaudhary Resident of Mohalla Kusumpuram Colony, Near Nahar Par, P.O. Nanapur Cantt, P.S. Rupaspur, District Patna (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The Joint Director, Home Police, Old Secretariat, Patna.
3. The Director General of police, Old Secretariat, Patna.
4. The Additional Director General of Police (Wireless), Bailey Road, Patna.
5. The Inspector General of Police (Wireless), Bailey Road, Patna.
6. The Deputy Inspector General of Police (Wireless), Bailey Road, Patna.
7. The Superintendent of Police (Wireless), Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhanendra Chaubey, Adv.
For the Respondent/s : Mr. J.K. Roy-1, SC 13

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 21-12-2018

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

In the present case, the petitioner is seeking relief of promotion to the post of Deputy Superintendent of Police (Wireless) from the year 1998 or from 25.02.2013.

The petitioner was appointed as Literate Constable Operator on 31.10.1971 in Schedule Caste category and was promoted to the post Assistant Sub Inspector (Wireless) in the year 1975 and, later on, as Sub Inspector (Wireless) in the year 1981 and in the year 1985, he was promoted to the post of Inspector (Wireless). The post of Deputy Superintendent of Police (Wireless)



was existed from the year 1998 but, the department constituted the Departmental Promotion Committee in the year 2003.

As Sri Nirmal Kumar Paswan was senior to the petitioner, he was given promotion to the post of the Deputy Superintendent of Police, Wireless, vide Police Department Memo No. 7607 dated 18.09.2014 w.e.f. 12.09.1997 and, as Sri Nirmal Kumar Paswan has superannuated from service from the post of Deputy Superintendent of Police, Wireless, in the year 2010, the petitioner became entitled for promotion to the post of Deputy Superintendent of Police but, in the meantime, a departmental proceeding as well as a criminal case was instituted vide Shastri Nagar P.S. Case No. 721 of 2003 which remained pending, in the meantime, in the departmental proceeding no. 5/2004, he was punished but, in the appeal, the punishment order was set aside and, thereafter, the case of the petitioner for promotion was considered by the Departmental Promotion Committee on 25.03.2013 and the Departmental Promotion Committee recommended the name of the petitioner to the post of Senior Deputy Superintendent of Police wherein he was found fit for promotion and the file was sent for approval of the Hon'ble Chief Minister on 26.02.2013 but, the petitioner got superannuated from service on 28.02.2013 and the notification has been published



thereafter in which he has not been shown to have been promoted to the post Deputy Superintendent of Police. From the records, it appears that the Departmental Promotion Committee has recommended his name before his superannuation and Chief Minister has also approved his promotion 26.02.2013 but, before the notification could have been issued, he has superannuated from service.

Learned counsel for the petitioner submits that the petitioner is entitled to the promotion from the due date i.e. after superannuation of Sri Nirmal Kumar Paswan.

Learned counsel for the State submits that as during that period, the petitioner was facing departmental proceeding and, as such, his case was considered after his exoneration from the charges.

Having considered the rival contentions of the parties, from the records, it appears that Sri Nirmal Kumar Paswan was senior to the petitioner and he was promoted to the post of Deputy Superintendent of Police and he got superannuated in the year 2010. The department could have considered his case of promotion and kept the same under the sealed cover but, this process has not been followed but, later on, he has been found fit for promotion to the post of Deputy Superintendent of Police but, before the actual



notification could not have been issued, the petitioner got superannuated from service.

Looking to the entire facts and law, it is not in dispute that the petitioner was not fit for promotion to the post of Deputy Superintendent of Police, merely on account of some contingency, he has been negated the benefit of promotion and it will be travesty of justice if the petitioner is deprived of the benefit of promotion and, as such, this Court directs that the petitioner should be treated to have been promoted notionally from the date of grant of approval by the Hon'ble Chief Minister.

With the aforesaid observations and directions, this writ petition is allowed to the extent indicated above.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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