

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20557 of 2013

=====

Lalan Prasad Harizon Son Of Late Bhola Ram R/O Mohalla- Sahid Gate Dumraon,
Ward No.13, Post- Dumaraon, P.S.- Dumraon, District- Buxar. At Present Posted
As Inspector Of Excise At Shekhpura, District- Shekhpura

.... Petitioner

Versus

1. The State Of Bihar Through The Commissioner Of Excise And Prohibition
Department New Secretariat Vikash Bhawan, Patna
 2. The Secretary, Excise And Prohibition Department, New Secretariat, Vikash
Bhawan, Government Of Bihar, Patna
 3. The Deputy Secretary, Excise And Prohibition Department, New Secretariat,
Vikash Bhawan, Government Of Bihar, Patna
 4. The Superintendent Of Excise And Prohibition Department, Sheikhpura District-
Sheikhpura, Government Of Bihar, Patna
- Respondents

=====

Appearance :

For the Petitioner : Mr. R.Giriyaghe, Advocate and
Mr. Ravi Shankar, Advocate

For the State : Mr. Harishankar Roy, AC to AG

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 29-08-2018

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

The petitioner is aggrieved by withdrawal of the promotion
granted to him under order dated 31.7.2009 bearing Memo no.
2948. Under the said order issued by the Commissioner, Excise the
petitioner was granted promotion from the post of the Sub Inspector
to the post of the Inspector.

Prior to the said order of promotion, the Bihar Excise
Service (Recruitment and Service Condition) Rules, 2009 had come
into effect on 25.5.2009.



It is the specific case of the respondents in their reply to the I.A.No.4493 of 2018 filed by the petitioner that under the said Rules of 2009 which had come into force prior to the promotion granted to the petitioner, the coram of the Departmental Promotion Committee (DPC) had been prescribed. The DPC was accordingly required to be constituted under the Chairmanship of the Chairman/Member of the Bihar Public Service Commission. Since the same has not been done the promotion was found to be contrary to the Rules, 2009 and the same has been withdrawn by the order dated 12.11.2013, issued by the Deputy Secretary to the Department of Excise and Prohibition. The specific stand taken in response to the petitioner's I.A. regarding petitioner's promotion being bad as the same was granted by a DPC which was constituted in violation of the provisions of Rules, 2009, has not been denied or disputed by filing any re-joinder to the reply. This Court had granted liberty for the said purpose under its order dated 1.8.2018.

The admitted position that emerges from the pleadings on record that the promotion of the petitioner was granted by an incompetent DPC which was not constituted in accordance with Rules of 2009 taken note of therein above. On basis of such DPC the petitioner cannot claim indefeasible right to continue on the higher post.



The writ petition is devoid of merit. It is dismissed.

(Madhuresh Prasad, J)

Shashi.

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

