

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.879 of 2019

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Manoj Kumar, Son of Shri Rajeshwar Kumar, Resident of Village-Jamalpur Gogri, P.O. Gogri, P.S.-Gogri District-Khagaria, Presently Posted as Labour Enforcement Officer, Jagdishpur,

... .. Petitioner/s

Versus

1. The State of Bihar represented through the Labour Commissioner,. Labour Resources Department , Govt. of Bihar, Patna
2. The Labour Commissioner, Labour Resources Department , Govt, of Bihar Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Kumar Ravish, Advocate
For the Respondent/s : Mr.Raghwendra Kumar,Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 18-12-2019 Heard learned counsel for the petitioner and the State.

The petitioner is aggrieved by the order dated 15.06.2018, Annexure-15 passed by the respondent No. 2, the Labour Commissioner, Labour Resources Department, Government of Bihar, Patna in compliance of the order dated 21.03.2018 (Annexure-13) passed in CWJC No. 1848 of 2017.

Counsel for the petitioner submits that other similarly circumstanced has been granted promotion but the case of the petitioner was treated differently on the ground that he was earlier terminated on 09.08.1991 which was set aside by this Court in CWJC No. 5639 of 1991 vide order dated 17.01.1995



(Annexure-4) and, as such, that cannot be a ground to deny promotion to the petitioner.

Promotion is not fundamental right but right to consideration for promotion has been a right guaranteed under Article 16 of the Constitution of India and the respondents cannot on illusory ground deprive the right to consideration of the petitioner. Consideration does not mean empty formality. Consideration requires objective consideration. From perusal of Annexure-15, it appears that the petitioner's case was rejected on the ground that in the year 1992 he was not in job. As indicated above, the order of termination was set aside by this Court and as such that cannot be a ground for denying promotion to the petitioner. Accordingly, the order dated 15.06.2018, as contained in Annexure-15 to this writ petition is hereby quashed.

The matter is remitted back to the respondents to take fresh decision in accordance with law. While taking fresh decision the respondents cannot take into consideration the order of termination and which was set aside vide order of the High Court. Necessary decision in this regard must be taken by the respondents within a period of three months from the date of receipt/production of a copy of this order.



With the aforesaid, the writ petition stands disposed
of.

(Anil Kumar Upadhyay, J)

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