IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2151 of 2017
In
Civil Writ Jurisdiction Case No.7477 of 2012

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Prabhakar Prasad Singh son of Late Kusheshwar Singh, resident of 30/E, Anandpuri, P.S.- Krishnapuri at and District- Patna.

... ... Petitioner/s

Versus

1. The State of Bihar Through Mr. Anjani Kumar Singh, The Chief Secretary, Government Of Bihar, Patna
2. Mrs. Sujata Chaturvedi, The Principal Secretary, Department of Finance, Government of Bihar, Patna.
3. Mrs. Sujata Chaturvedi, The Principal Secretary, Department of Commercial Taxes, Bihar at Patna.
4. Mr. Subodh Ram, The Joint Commissioner-cum-Deputy Commissioner, Commercial Taxes, Bihar, Head Quart

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr.Bhola Kumar
For the Opposite Party/s : Mr.Lalit Kishore - Paag 1

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 22-02-2019 Considering the show cause filed on behalf of the opposite parties particularly paragraphs 6 to 11 which is quoted below:-

“6. That the Hon’ble Court vide its order dated 15.05.2012 passed in C.W.J.C. No. 7477 of 2012 observed as- “The Court upholds the submission on behalf of the State. The petitioner cannot accept that part of the order dated 26.09.2008 which suits him and reject the rest. The punishment if acceptable to him has to be composite in nature on both aspects of the punishment. If the duration of the punishment has expired, as was submitted on his behalf, when

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the respondents may not have taken fresh steps to conclude the departmental proceeding as directed by the Court, let his claims be considered in accordance with law and disposed of by a reasoned and speaking order within a maximum period three months".

7. That in compliance of order dated 15.05.2012 passed in C.W.J.C. No. 7477 of 2012, the then Commissioner-cum-Principal Secretary Commercial Tax, Bihar, Patna passed a reasoned order vide Memo No. 017/C dated 27.01.2014 and granted the benefit of 1st A.C.P. to the petitioner with retrospective effect from 18.07.2001.

8. That so far, the allegation of the petitioner for not granting him the benefit of 2nd A.C.P. and regular promotion, it is humbly submitted that in Jehanabad P.S. Case No. 424/2004, 436/2004, 441/2004, 462/2004 and 463/2004 prosecution against the petitioner has been sanctioned and the criminal cases are still pending.

Further in the departmental proceeding vide notification no. 395 dated 26.09.2008 the petitioner was imposed punishment of (i) withholding of two increments with cumulative effect and (ii) debarred from promotion for the next two years.

Thus in view of the resolution no. 7457 dated 11th September 2002 of personnel department petitioner is not entitled for regular

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promotion and also not entitled for the benefit of 2nd A.C.P. (As per Rule-4(5) of the A.C.P. Rules 2003).

However the matter of petitioner's promotion was placed in the meeting dated 29.10.2013 of the D.P.C., but the D.P.C. in view of non-availability of confidential character roll and also in view of the charges kept the matter of petitioner's promotion pending, but reserved the post.

Likewise in the meeting dated 13.05.2016 of the D.P.C. the matter of petitioner's promotion was placed, but the D.P.C. in view of the incomplete A.C.R. kept the matter of petitioner's promotion pending, but reserved the post.

9. That for granting the benefit of modification 2nd A.C.P. has matter was placed in the meeting dated 10.02.2016 of the D.P.C. but due to incomplete Bench marking of character roll, it was not considered.

10. That in view of the Court's order, the D.P.C. in its meeting dated 08.03.2017 and 23.03.2017 had recommended the petitioner's promotion to the post of Assistant Commissioner Commercial Tax w.e.f. 01.04.2015 and accordingly vide notification No. 3058 dated 19.08.2017 the petitioner was given promotion to the post of Assistant Commissioner Commercial Tax w.e.f. 1.4.2015.

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11. That in view of the aforesaid facts and circumstances, it is clear that the order dated 15.05.2012 passed in C.W.J.C. No. 7477 of 2012 has been fully complied with, the court is not inclined to proceed any further in the present proceeding. However, liberty shall be available to the petitioner to approach the appropriate forum/court for redressal of his grievance in accordance with law.

With the aforesaid, the present application stands disposed of.

(Anil Kumar Upadhyay, J)

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