

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2825 of 2016

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Naresh Chaudhary Son of Lakhan Chaudhary, C/o Shri Bhim Chaudhary RBI
Resident of Mohalla - Shakti Nagar, Plot No. 74, Saket Bihar, P.O. Anisabad,
District - Patna

... .. Petitioner

Versus

1. The State Of Bihar through Chief Secretary, Bihar Patna
2. The Secretary Bihar Legislative Assembly, Patna
3. The Under Secretary, office of the Speaker Bihar Legislative Assembly,
Patna
4. The Under Secretary, office of the Secretary Bihar Legislative Assembly,
Patna

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Binod Kumar
For the State	:	Mr. Sita Ram Yadav, GP 16
For Respondents 2 to 4	:	Mr. Rajendra Narayan, Sr. Advocate Mr. Kaushal Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 17-04-2019

Heard learned Counsel for the petitioner, learned
Counsel for the State and learned Senior Counsel appearing for the
respondent Bihar Legislative Assembly.

The petitioner was earlier working in the Legislative
Assembly as a Lower Division Clerk. In the year 2012 he sought
to be relieved from the services of the Assembly to join as an
Assistant Teacher at Upgraded Middle School, Menha Sattar
Kataya in the district of Saharsa. Upon his application for being
relieved, the respondent Assembly issued a relieving order dated
28.5.2012. The same specifically stipulates that the petitioner upon



his relieving would have no subsisting lien in the Assembly Secretariat. Subsequent thereto, as per the petitioner's own case, he gave his joining on 22.2.2012 at the Upgraded Middle School. In the year 2014, the other Lower Division Clerks in the Assembly were to be considered for promotion and for the said purpose integrated seniority list was published by the Assembly Secretariat on 12.5.2014. The petitioner by way of instant proceeding claims that his name should be included in the integrated seniority list prepared for granting promotion to other Lower Division Clerks in the Vidhan Sabha Secretariat.

It is submitted by Counsel for the petitioner that the persons whose claim for promotion was taken up by the integrated seniority list dated 12.5.2014 were all similarly situated as the petitioner, as they had not been made confirmed employee of the Assembly Secretariat till 29.8.2015. He submits therefore that rejection of petitioner's claim on the ground that he was not a confirmed employee of the Assembly is unsustainable in the eyes of law and discriminatory.

Such a plea of the petitioner could only be sustained while he was still in the services of the Bihar Legislative Assembly. Admitted position is that on 28.5.2012 the petitioner had already been relieved from his services in the Assembly with clear stipulation that he would be having no subsisting lien in the Bihar Legislative Assembly. The petitioner ceased to be an



employee of the Assembly and had no lien in the organisation. He took substantial appointment as Assistant Teacher in the year 2012. In the circumstances, claim of the petitioner to be included in the integrated seniority list prepared in the Legislative Assembly in the year 2014 i.e. two years after he had severed his relationship with the Assembly cannot be considered. The claim of the petitioner for being included in the integrated seniority list of Lower Division Clerks in the Legislative Assembly where he ceased to be an employee is unsustainable.

In this regard, reliance placed by the Senior Counsel appearing for the Assembly, on the decision in the case of ***Ram Lal Khurana Vs. State of Punjab*** reported in ***1989(4) SCC 99***, appears to be correct. The Apex Court in the said case has clearly held that lien indicates right of a servant to hold a post substantially on which he is appointed. Such right the petitioner had relinquished by obtaining relieving under communication dated 28.5.2012 with a clear stipulation that he would be having no subsisting lien.

In the circumstances, this Court does not find any merit in the writ petition. The same is dismissed.

(Madhuresh Prasad, J)

SNkumar/-

AFR/NAFR	AFR
CAV DATE	N/A
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