

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18181 of 2016

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Satish Kumar Singh, S/o Sri Singheshwar Prasad Singh, Resident of Mohalla-
Garden Bazaar, Phulari, P.O. and P.S.-Munger, District- Munger.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Labour Resources
Department, Government of Bihar, Patna.
2. The Labour Commissioner, Bihar, Patna.
3. The Joint Labour Commissioner, Bihar, Patna
4. The Joint Labour Commissioner, Bihar, Patna

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Ram Shankar Pradhan, Senior Advocate Mr. Ranjeet Choubey, Advocate Mr. Jainendra Kumar, Advocate
For the State	:	Mr. Sushil Kumar Singh, A.C. to A.A.G-10

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 11-07-2019

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

2. In this case, the petitioner is seeking relief of
giving direction to the respondents to consider and grant
promotion to the post of Labour Enforcement Officer with effect
from 2011 i.e. from the date he was eligible for promotion or at
least from the date juniors to the petitioner have been granted
promotion as Labour Enforcement Officer as prescribed under
the Labour Enforcement Officer (Recruitment) Rules, 1990.



3. In pursuance of the recommendation of the Staff Selection Commission, the petitioner was appointed as Lower Division Clerk in Class III post under the administrative control of the Labour Commissioner, Bihar. Accordingly, the petitioner was posted in the office of the Labour Superintendent, Kishanganj, accordingly, he joined the service on 04.11.2006, later on, he was transferred and posted in the office of the Deputy Labour Commissioner, Patna Division, Patna. The Government of Bihar has come out with the Labour Enforcement Officers (Recruitment) Rules, 1990, wherein it has been prescribed that the post of Labour Enforcement Officer would be filled up through direct recruitment as well as promotion. Rule 3(c) of the said Rules, 1990 prescribes qualification for recruitment and promotion and it has been provided as follows:-

“(i) Graduate from a recognized University.

(ii) Class-III employees, who have completed 5 years of continuous service under the administrative control of the Commissioner of Labour, Bihar.

(iii) Maximum age limit of 45 years.”

4. So, there is a provision for direct recruitment as



well as promotion and upper age limit of 45 years has been prescribed for promotion of the employees to the post of Labour Enforcement Officer. As the petitioner was appointed in the year 2006 and later on, he was shifted in the office of Deputy Labour Commissioner, Patna Division, Patna, and the minimum service required for promotion to the post of Labour Enforcement Officer is five years, so according to the petitioner he was eligible for promotion from the year 2011 itself, but the Departmental Promotion Committee did not convene its meeting upto 05.10.2016. On 06.10.2015 the Departmental Promotion Committee convened its meeting and the case of the petitioner and others were considered, but the petitioner has not been granted promotion on account of the fact that he has already crossed the upper age limit of 45 years.

5. Learned counsel for the petitioner submits that last meeting of Departmental Promotion Committee was convened during the year 2009-10, whereafter did not convene any meeting during the period 2011 to 2015. Had there been a meeting of Departmental Promotion Committee before 2016, certainly the petitioner would have been promoted to the post of Labour Enforcement Officer.

6. It has further been submitted that as per the



Guidelines issued by the State of Bihar, the Departmental Promotion Committee should have convened on every year so that eligible persons would be promoted to the next higher level, but in the present case, the Departmental Promotion Committee has not convened its meeting for consideration of promotion to the post of Labour Enforcement Officer.

7. Learned counsel for the State has submitted that 1990 Recruitment Rules, itself prescribes the necessary qualification and incidence for grant of promotion to the next level of post i.e. the Labour Enforcement Officer, provides that the person must have an experience of five years of service under administrative control of Commissioner of Labour, Bihar and he must have qualification of graduation, but must not cross the upper age limit of 45 years, as the petitioner has crossed the age of 45 years on 06.10.2016, is the reason for refusing to grant promotion to the post of Labour Enforcement Officer.

8. Having considered the rival contentions of the parties, it appears that in the year 2011 itself the petitioner became eligible for promotion to the post of Labour Enforcement Officer, but after delay of five years, the Departmental Promotion Committee did convene its meeting to consider the case of petitioner and others for promotion to the



post of Labour Enforcement Officer. As per the Guidelines, every year the Departmental Promotion Committee was required to hold its meeting, recommend the name of eligible persons for being promoted to the post of Labour Enforcement Officer, but the Departmental Promotion Committee did not hold its meeting for 4-5 long years. The Rule itself prescribes provision for relaxation of age, in that event, the probity lies to the authority that the petitioner should have been given the benefit of age relaxation as well as he cannot be deprived of the benefit of promotion as because the petitioner crossed the upper age limit of 45 years because of inaction of the State in not holding the meeting of Departmental Promotion Committee in time.

9. In this view of the matter, the recommendation with respect to the petitioner refusing to grant promotion on the ground of overage is set aside. The matter is remanded back to the Departmental Promotion Committee to consider the case of the petitioner afresh taking into account the fact that the petitioner became overage on account of laches on the part of the State and the State cannot take plea of dis-entitlement of the petitioner for promotion for the laches committed by them. It is made clear the authority would consider the grant promotion to the



petitioner on the post of Labour Enforcement Officer either from the date of his entitlement i.e. from 2011 or from the date the juniors to the petitioner have been granted the benefit of promotion.

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

(Shivaji Pandey, J)

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AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	15.07.2019
Transmission Date	

