

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 12864 of 2014

=====

Harishankar Prasad Verma, son of Sri Ramchandra Prasad, resident of village-
Gola Patti, Dalsinghsarai, P.S.- Dalsinghsarai, District- Samastipur

... .. Petitioner/s

Versus

1. The State Of Bihar through the Commissioner, Darbhanga Division, Darbhanga
2. The Collector-cum-District Magistrate, Samastipur
3. The Sub-Divisional Officer, Rosra
4. Chandrakant Karn, son of Late Sita Ram Lal Das, resident of village P.O.- Tisee Bagiya, P.S.- Benipatti, District- Madhubani. At present posted C.O. Office, Rosra
5. Dayanand Prasad Singh, son of Late Jageshwar Singh, resident of village Post- Khalishpur, P.S.- Sarairanjan, District- Samastipur, at present posted D.M. Office, Samastipur (General Branch)
6. Chandra Prakash Lal S/o Late Suresh Chandra Prasad Village- Hari Patti, P.O.- Digra, P.S.- Digra, District- Madhubani, At present posted Sub-Division Officer, Dalsinghsarai
7. Asha Kumari, Wife of Sri Pramod Lal Das, resident of village post P.S.- Manigachhi, District- Darbhanga. At present posted D.M. Office, Samastipur, (Revenue Branch)
8. Gaznaffar Khan, S/o Late Youm Khan, Distt. Darbhanga Village- Lalbagh, P.S.- Town. At present posted C.O. Office, Bibhutipur
9. Zaharul Hassan, S/o Late Zafirul Hussain, At present posted C.O. Office Morba, Village Ratbadha, P.S.- Kalyanpur, Dist.- Samastipur
10. Jitendra Kumar, name of father not known, At present posted D.M. Office Saran Chhapra
11. Raj Kumar Paswan, S/o Late Chhede Paswan, Mohalla- Ambadkar Nagar, Ward No.- 5, Distt.- Samastipur. At present posted Block Office Kalyanpur
12. Janak Choudhary, S/o Late Jindar Choudhary, VillPost-Seura, P.S.- Patori, Distt.- Samastipur. At present posted D.M. Officer- Samastipur Development Branch

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr Arup Kr Chongdar, Advocate
For the S t a t e	:	Ms Nutan Sahay, AC to AAG XII

=====



CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 02-07-2019

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

2 Learned counsel for the petitioner submits that fact regarding nine persons, junior to the petitioner, being promoted on Class III post, stands admitted in view of the decision of this Court in CWJC No 6447 of 1996. Petitioner, thus, claims that he should be granted the promotion on Class III post. He also claims refixation of his pay scale, in view of the same having been granted to the nine persons, junior to him.

3 The issue whether those persons were junior to the petitioner and could have been granted promotion on Class III post having regard to their basic induction on compassionate appointment was considered by this Court in the earlier writ proceedings at the instance of the petitioner earlier in CWJC No 6447 of 1996. Having considered the entire issue that the said nine persons have been appointed on compassionate ground and that they could not have been promoted on Class III post meant for direct recruit, this Court left the issue to be decided by the



Collector of the district. The Court, after directing the Collector to resolve the issue, observed as follows:

“Though the petitioner may not be immediate gainer out of such cancellation of appointment but then if these nine appointment on Class III post is cancelled and the same is taken into account in future vacancies for being filled up from amongst Class IV employees, the benefit of the same may also accrue to the petitioner, if he is otherwise eligible and comes within the 50% of Class III posts to be filled up on the basis of seniority in future.

With the aforementioned observations and directions, this application is disposed of.”

4 The petitioner, thereafter, preferred a contempt application. The contempt application was numbered as MJC No 1313 of 2012. The stand of the State in the contempt proceedings was that the case of petitioner for promotion against 50% quota on Class III post was likely to be completed shortly. Having regard to the said stand of the State, the contempt proceedings were dropped and it was observed in the order dated 16.01.2013 passed in MJC No 1313 of 2012 that retention of nine persons, appointed on compassionate ground in no way was going to adversely affect case of the petitioner. By making such observation, the contempt proceedings were dropped. The issue, therefore, was given a



quietus having regard to the fact that the petitioner was likely to be promoted on Class III post against 50% quota.

5 Pursuant thereto, admittedly, as per submission made by learned counsel for the petitioner, the petitioner has been promoted on Class III post with effect from 24.09.2013. That being so, there is no occasion for this Court to reexamine the same issue regarding the petitioner's claim with regard to the nine persons junior to him which issue stands concluded in light of the decisions rendered in CWJC No 6447 of 1996 as well as the proceedings arising out of MJC No 1313 of 2012.

6 Writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	04.07.2019
Transmission Date	NA

