

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 14393 of 2014

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Shashi Bhushan Singh son of Sri Ragho Prasad Singh resident of Collector
Singh Keshari Nagar, P.S. Patliputra, District - Patna

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director, Fishery, Bihar, Patna
3. The Joint Director, Fishery, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Dhananjay Kumar
		Mr.Sushil Prasad
For the Respondent/s	:	Mr.Manisha Singh, AC to GP 7

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 17-09-2019 Heard counsel for the petitioner and counsel for the
respondents-State.

Under a policy decision of the State Government dated 21.02.2008 petitioner claims promotion as Assistant Engineer from the post of Junior Engineer.

It is submitted that as per policy decision, petitioner has a right to be considered for promotion against 10% promotion quota of Assistant Engineer. It is submitted that the petitioner fulfilled all other requisite qualifications and also that juniors to the petitioner have been granted said promotion ignoring the claim of the petitioner.

Respondents- State has placed on record their counter affidavit stating that criminal case is pending against the



petitioner.

Issue whether criminal proceedings or departmental proceedings can be held to exclude an employee from consideration for promotion stands decided by the apex court in the case of Union of India & ors v. K.V. Jankiraman reported in (1991) 4 SCC 109. The date of service of charge memo in departmental proceedings and service of charge sheet in a criminal proceeding is the date from which either of two proceedings would be considered to have started so as to come in the way of consideration for promotion.

Whether charge sheet has been filed in the criminal case or whether there is any impediment on account of pendency of any other departmental proceedings or punishment in the departmental proceedings is an issue which authorities should consider. If any junior to the petitioner has been granted promotion and there is no impediment in granting of the same to the petitioner then it should be granted to the petitioner also.

Respondent no.2 (Director, Fishery, Bihar, Patna) should consider the petitioner's claim in light of observations made above and dispose of claim of the petitioner by reasoned and speaking order in accordance with law. If promotion is found due to the petitioner, the same should be granted with



effect from the date on which his junior has been given the same as, but as per admissibility of the petitioner's claim.

Let final decision in this respect be taken by respondent no.2 within three months from the date of receipt/production of a copy of this order.

(Madhuresh Prasad, J)

s.hassan/-

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