

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15321 of 2005

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Ganga Poddar son of late Tarini Poddar Resident of Mohalla Asarganj, in front of Moti Ram, Dharmshala P.S. Asarganj, District-Munger

... .. Petitioner

Versus

1. The State of Bihar
2. The Chief Secretary, Government of Bihar, Patna
3. The District Magistrate cum Collector, Begusarai, Bihar
4. The A.D.M. Establishment Begusarai
5. The Additional Collector, Begusarai
6. The District Magistrate-cum-Collector, Munger
7. The Additional Collector, Munger
8. The Block Development Officer, Begusarai
9. The Circle Officer, Bhakhari, Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajendra Kumar Jain, Advocate
For the Respondent/s : Mr. Mritunjay Kumar AC to AAG-6Aag2

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 18-10-2019

Heard learned counsel for the petitioner and

learned counsel for the respondent-State.

2. The instant writ petition has been filed with a prayer that *Mandamus* be issued directing the respondents to grant First and second time bound promotions to the petitioner. The claim of the petitioner is that he has retired as a '*Revenue Clerk*' on 31.12.1991. The averments to this extent in the writ petition is not sustainable, in view of Annexure-9 brought on record by the petitioner himself, from which it is apparent that



petitioner has superannuated as a '*Revenue Karmchari*' and not '*Clerk*'.

3. The respondents in the counter affidavit have placed on record the order dated 28.07.1998, whereby and whereunder the District Magistrate, Begusarai, rejected the petitioner's claim for time bound promotion.

4. The petitioner has filed Interlocutory Application bearing I.A. No. 9190 of 2010, assailing the rejection of time bound promotion under order of the District Magistrate, Begusarai dated 28.07.1998.

5. The petitioner's counsel submits that the consideration of the District Magistrate, Begusarai, is grossly illegal inasmuch as the petitioner's claim has been denied even though there is no punishment order directing for withholding of any promotional benefits to the petitioner.

6. Having considered the rival submissions and the averments on record in the pleadings, it is apparent that earlier the petitioner had approached this Court in C.W.J.C .No. 3925 of 1997.



The petitioner was claiming his retiral dues pursuant to his retirement on 31.12.1991 as well as grant of benefits of time bound promotion. The said writ petition was disposed off on 03.03.1998 and having regard to the fact that the petitioner's entitlement to time bound promotion was being processed, the Additional District Magistrate, Establishment was directed to consider the petitioner's case for promotion. Apparently, the order of the District Magistrate dated 28.07.1998 is pursuant to the direction passed on the petitioner's earlier writ proceedings, the order dated 28.07.1998 is sought to be assailed in the instant proceedings by way of filing an Interlocutory Application bearing I.A. No. 9190 of 2010.

7. The petitioner's counsel submits that prior to the counter affidavit filed by the respondents, order dated 28.07.1998 of Collector, Begusarai, was not served on the petitioner and, therefore, the same has been assailed by way of Interlocutory Application. The ground for assailing the same is that the consideration is illegal as the rejection



could not have been based on the various punishment orders recorded in the order of the District Magistrate dated 28.07.1998, when there was no specific punishment order directing for withholding any promotional benefits to the petitioner.

8.Order of the District Magistrate, Begusarai, clearly records that the Establishment committee, in its meeting dated 18.10.1986 and 07.12.1990 had examined the petitioner's claim and the confidential reports, which were found to be adverse and, at least three instances of punishment by way of withholding of annual increments have been noticed by the Collector in the said order. The fact that First Information Report was also instituted by the Department, against the petitioner for taking away his Service Book has also been considered by the Collector. Based on such considerations the order has been passed to the extent that the petitioner was not entitled for any promotional benefits due to various punishments as well as the confidential reports



which were considered on 18.10.1986 and 07.12.1990.

9. The fact that there was no specific punishment order of withholding of promotion benefits as submitted by the petitioner, even if taken to be correct would not entitle the petitioner to grant of benefits under time bound promotion having regard to the various punishments which have been considered by the Collector, Begusarai, in the order dated 28.07.1998. The order of the Collector, Begusarai does not require any interference.

10. The writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	22.10.2019
Transmission Date	

