

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.465 of 2012

Swami Dayanand Prakash S/O Sri Satya Narain Paswan Assistant Scientific Officer, Regional Office, Bihar State Pollution Control Board, Industrial Area, Barauni, P.O. And P.S.- Tilrath, District- Begusarai

... .. Petitioner

Versus

1. The State Of Bihar, through the Principal Secretary, Department Of Forest And Environment, Govt. Of Bihar, Patna
2. The Bihar State Pollution Control Board, Through Its Chairman Beltron Bhawan, Shastri Nagar, Patna
3. The Chairman Bihar State Pollution Control Board, Beltron Bhawan, Shastri Nagar, Patna
4. Member Secretary Bihar State Pollution Control Board, Beltron Bhawan, Shastri Nagar, Patna
5. The Regional Officer Bihar State Pollution Control Board, Industrial Area, Barauni, P.S. And P.O.- Tilrath, District- Begusarai
6. Sri Swami Nath Jaiswal, Scientist Bihar State Pollution Control Board, Beltron Bhawan, Shastri Nagar, Patna

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Arvind Kumar
For the State	:	Mr. Ranjan Kumar Singh AC to SC 6
For BSPCB	:	Mr. Shivendra Kishore, Sr. Advocate Mr. Parijat Saurav

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 21-10-2019 Heard learned Counsel for the petitioner as well as respondent Board.

The claim in the writ petition is for a direction upon the respondents for granting promotion to the petitioner as Scientist in the Bihar State Pollution Control Board.

The stand of the Board in the instant proceeding is that the three posts available as per roster were filled up and



there was no vacant sanctioned post of Scientist available to be filled up by way of promotion. In the circumstances the petitioner who in order of seniority was on fourth position could not assert any claim as none junior to him had been promoted. Specific assertion in this regard have been made in the counter affidavit.

The non availability of vacant sanctioned post has not been denied or disputed by the petitioner though reply has been filed. The petitioner in his reply has asserted that he was qualified and therefore was no barrier operating against him.

The petitioner's promotion has not been denied on account of any disqualification but for want of vacancy which position has not been denied or disputed. In the circumstances there is no occasion for this Court as the petitioner has no right to assert since there was no vacancy for promotion on the post of Scientist.

The writ petition is devoid of merit and is dismissed.

(Madhuresh Prasad, J)

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