

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.416 of 2016

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Satan Prasad Yadav son of Late Ganesh Kumar Yadav resident of Village -
Machhrgawan, Post Office - Nautan Bazar, P.S. and Block - Bairiyan, District
- West Champaran at Bettiah ... Petitioner

Versus

1. The State Of Bihar
 2. The Magistrate, West Champaran at Bettiah.
 3. The District Panchayat Officer West Champaran at Bettiah.
 4. The District Accounts Officer West Champaran at Bettiah.
 5. The Block Development Officer, Chanpatiya, District West Champaran at
Bettiah Respondents
- =====

Appearance :

For the Petitioner : Mr.Jitendra Kumar Roy, Advocate
For the Respondents : Mr.Alok Kumar, AC to SC 15

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 21-02-2019

Heard learned counsel for the petitioner as well as
learned counsel for the State.

Petitioner in the instant writ proceedings claims that his
appointment made under Annexure 5 dated 28.07.1997 on the post
of Panchayat Sevak/Panchayat Secretary should be considered
from 19.11.1995. Claim of the petitioner is on the ground that the
roster clearance for the post against which the petitioner has
ultimately been appointed on 28.07.1997 was already done on
19.09.1996. Since the entire process of petitioner's appointment as
Panchayat Sevak from the post of Dalpati has the ingredients of a
promotion, the petitioner would be entitled to all the benefits of his
service on the post of Panchayat Sevak/Panchayat Secretary with
effect from the date of roster clearance dated 19.11.1995, and not
the date of his appointment, i.e., 28.07.1997.

Respondent State has submitted that the appointment of
the petitioner on 28.07.1997 as Panchayt Sevak is a fresh
appointment pursuant to procedure of appointment, wherein the
petitioner had been considered. In the process of appointment



when the petitioner's claim was not finally considered in his favour, he had earlier approached this Court by filing C.W.J.C.No. 10759 of 1995. Relevant extract of order of the Court in C.W.J.C.No. 10759 of 1995 dated 11.3.1996 is being re-produced herein below:-

“In this view of the matter, this writ petition is disposed of in the same terms as C.W.J.C.No. 4562 of 1995. It is, however, made clear that the authorities will satisfy themselves that the petitioners are eligible and qualified for appointment as Panchayat Sewak and that sufficient number of vacancies exists against which they will be appointed in accordance with the rules”.

This Court would find that the petitioner had approached this Court way back in 1996 for appointment pursuant to the selection process which was being conducted by the Committee constituted under the State Government circular dated 24.06.1989. From the order passed on the petitioner's earlier writ petition the case of the petitioner is clear that he was seeking appointment. No claim in respect of promotion is apparent from the order passed on the petitioner's earlier writ petition which was passed by this Court in favour of his appointment on 11.03.1996. On that date no claim had been made for grant of any benefit with effect from an earlier date, i.e., 19.11.1995. Such relief was available to the petitioner when the petitioner's earlier writ petition was filed and decided. From the order dated 11.03.1996 it is apparent that even then petitioner was claiming appointment as Panchayat Sevak/Sachiv. Petitioner has never claimed benefits of the post of Panchayat Sevak retrospectively as a promotion.



Petitioner has no legal basis to claim that he is entitled to to benefits of the post of Panchayat Sevak/Sachiv with effect from 19.11.1995, even though he has been appointed as such on 28.07.1997 without any objection.

Writ petition has also been filed belatedly about nineteen years after obtaining benefits of appointment order dated 28.07.1997 issued by the District Magistrate, without any objection. The petitioner has not come out with any reasonable explanation for such inordinate delay.

Prayer made in the writ petition is devoid of merit.

Writ petition is dismissed.

(Madhuresh Prasad, J)

Shashi

AFR/NAFR	NAFR
CAV DATE	NA
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