

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9502 of 2017

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Jay Prakash Chaudhary, Son of Late Sitaram Chaudhary, Resident of Mohallah - Pratappur, P.S. - Mehandiganj, Patna City, P.O. - Jhauganj, District- Patna, at present residing at Kali Mandir, near DONBOSCO School, Ashiyana Digha Road, P.S.- Digha, P.O.- Digha, Patna (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
4. The Secretary-Cum-Home Commissioner (Home Police), Government of Bihar, Patna.
5. The Inspector General of Police (HQ), Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhanendra Chaubey, Adv.

For the Respondent/s : Mr. Prabhat Kumar Verma, AAG-3

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 11-02-2019

The *inter se* seniority of the petitioner in the cadre of Sub-Inspector was fixed from the date of his reversion to the cadre after serving for 5 years as a Stenographer/Sub-Inspector.

2. The petitioner felt aggrieved with the aforesaid fixing of seniority on the ground that in the relevant rule of the Bihar Police Manual, *viz.*, Rule 749, Clause 15 of which prescribes that the *inter se* seniority



would be reckonable from the date of appointment of such Sub-Inspectors in the original cadre of Stenographer/Sub-Inspectors. Later, *vide* memo No. 260 passed in the year 1997, the aforesaid modality of fixing the *inter se* seniority, especially Clause 15 thereof, has been eclipsed, but only with prospective effect.

3. The petitioner had approached this Court for being considered for seniority reckonable from the date of his original appointment as a Stenographer/Sub-Inspector. A Bench of this Court *vide* order dated 11.12.2015, passed in C.W.J.C. No. 12779 of 2015, directed the petitioner to prefer a representation before the Principal Secretary, General Administration Department, Govt. of Bihar, Patna, who, in turn, was directed to take note of the modification in Clause 15 of Rule 749 of the Bihar Police Manual and dispose off the representation of the petitioner within a period of three months.

4. Strengthened by the aforesaid observation and direction by this Court, the petitioner represented before the Principal Secretary, General Administration Department,



Govt. of Bihar, Patna, urging that his seniority be fixed from the date of his original appointment on the post of Stenographer/Sub-Inspector. The aforesaid representation of the petitioner has been rejected on the ground that all the service details are only available with the Director General of Police, who is the controlling authority of all the cadres of the Police Department and any decision with respect to seniority by any other authority would disturb the seniority of all other persons, which would neither be advisable nor legal.

5. Against the aforesaid order passed by the Principal Secretary, General Administration Department, Govt. of Bihar, Patna (respondent No. 3) as also for a fresh consideration of the proper interpretation of the modification in Rule 749 of the Bihar Police Manual, the present writ petition has been preferred.

6. Considering the objection of the Principal Secretary, General Administration Department, Govt. of Bihar, Patna (respondent No. 3) to be absolutely tenable, this Court, at this stage, only directs the petitioner to make a



fresh representation before the Direction General of Police, Bihar, Patna (respondent No. 2), within a period of four weeks from today, enclosing along with a copy of the original Rule 749 of the Bihar Police Manual as also the rule modifying the same in the year 1997 along with the reasons for fixing the seniority of the petitioner from the date of his appointment on the post of Stenographer/Sub-Inspector.

7. On receipt of the aforesaid representation, the Direction General of Police, Bihar, Patna (respondent No. 2), after referring to all necessary aspects, shall dispose off the same by a reasoned order within a period of four weeks thereafter.

8. With the aforesaid observation and direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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