

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1514 of 2018

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Tarak Nath Roy S/o Late Sriti Kumar Roy R/o Mohalla Somesh Babu Lane
Bangali Tola, P.O.- Champa Nagar, P.S. - Nath Nagar, District - Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Agriculture Department, Government of Bihar, Patna.
3. The Director, Agriculture, Government of Bihar, Patna.
4. The Bihar Agriculture University, Sabour, Bhagalpur through its Registrar.
5. The Vice Chancellor, Bihar Agriculture University, Sabour, Bhagalpur.
6. The Director, Administration, Bihar Agriculture University, Sabour, Bhagalpur.
7. The Principal, Bihar Agriculture College, Sabour, Bhagalpur.
8. The Chief Soil Survey, Bihar Agriculture College, Sabour, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Tej Bahadur Singh, Sr. Advocate
For the State	:	Mr. Niraj Kumar Sinha- AC to PAAG-2
For the University	:	Dr. K.N.Singh, Sr. Advocate
		Mr. Sriram Krishna, Advocate
		Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 14-10-2019

Heard learned counsel for the petitioner and the State

as well as the University.

2. Mr. Tej Bahadur Singh, learned senior counsel appearing on behalf of the petitioner would submit that the petitioner is eligible for grant of promotion from Group-D to Group-C. He submits that seniority is relevant criteria for grant of promotion.



3. Per contra, Dr. K.N.Singh, learned senior counsel appearing on behalf of the Bihar Agriculture University would submit that promotion is regulated by the Statutory Scheme which does not permit promotion on the post simplicitor seniority.

4. Faced with the statutory scheme which does not recognize seniority as criteria for promotion, Mr. Tej Bahadur Singh, learned senior counsel appearing on behalf of the petitioner submits that the petitioner is working as Establishment Clerk since 8.4.2011 and earlier also he has worked as Store Keeper, a class III post. He placed reliance on the judgment of the Apex Court in the case of the **Secretary-cum-Chief Engineer, Chandigarh v Hari Om Sharma & Others [(1998) 5 SCC 87]** to contend that petitioner is entitled to officiating allowance for discharging the higher responsibility. Similar view was expressed by the Apex Court in the case of **Arindam Chattopadhyay Vs. State of W.B.:** **(2013) 4 SCC 152.**

5. Dr. K.N.Singh, learned senior counsel appearing for the University however, submits that the petitioner is not promoted on Class-III post and therefore, he is not entitled to pay scale admissible to class III employees.

6. Considering the rival submissions of the parties and also the judgment of the Apex Court as discussed hereinabove, the



writ petition is disposed of with a direction to the respondents to consider the case of the petitioner for grant of officiating allowance for discharging higher responsibility as the principle enunciated by the Apex Court and reiterated subsequently, is settled on the point that the employees are entitled to officiating allowance for discharging higher responsibility.

7. So far as grant of promotion is concerned, seniority may be relevant factor but seniority alone is not criteria for promotion particularly when there is statutory scheme regulating promotion.

8. Accordingly, the respondents are directed to ensure payment of officiating allowance for the period the petitioner has discharged the higher responsibility as Store Keeper/Establishment Clerk. At the same time, the University may consider his case for promotion provided the petitioner answers the eligibility in terms of the statutory scheme.

9. In the facts of the case, the University is permitted to proceed ahead and finalize the selection process for promotion by way of limited competitive examination and in case the petitioner satisfies the requirement of eligibility, his case may also be considered.



10. With the aforesaid, the writ petition stands disposed
of.

(Anil Kumar Upadhyay, J)

spandey/-

AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

