

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13064 of 2019

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Lalit Mohan Pathak Son of Late Ram Jhalak Pathak, Resident of village Kaithwali, P.S. Narahi, District Ballia (Uttar Pradesh) at present posted as Junior Electrical Engineer, M.R.T. Sub- Division No. 1 Under Electric Supply Circle, Patna.

... .. Petitioner/s

Versus

1. Bihar State Power (Holding) Co. Ltd. Having its registered office at Vidyut Bhawan, bailey Road, P.S. Kotwali, District- Patna.
2. Chairman-cum-Managing Director, Bihar State Power (Holding) Co. Ltd., Vidyut Bhawan, Bailey Road, P.S. Kotwali, District Patna.
3. South Bihar Power Distribution Co. Ltd., Vidyut Bhawan Bailey Road, P.S. Kotwali, District Patna - through its Managing Director.
4. Director (Administration), Bihar State Power (Holding) Co. Ltd.-cum-Chairman DPC, Vidyut Bhawan, Bailey Road, P.S. Kotwali, District Patna.
5. General Manager (HR/Adm), Bihar State Power (Holding) Co. Ltd., Vidyut Bhawan, Bailey Road, P.S. Kotwali, District Patna.
6. Deputy General Manager (HR/Adm.) Bihar State Power (Holding) Co. Ltd., Vidyut Bhawan, Bailey Road, P.S. Kotwali, District Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Umesh Prasad Singh, Sr. Advocate Mr. Rakesh Kumar, Advocate Mr. Abhimanyu Vatsa, Advocate Ms. Priti Jaiswal, Advocate Mr. Rajni Kant Singh, Advocate
For the Respondent/s	:	Mr. Vinay Kirti Singh, Sr. Advocate Mr. Vijay Kumar Verma, Advocate Mr. Akhileshwar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 02-07-2019

Heard the learned counsel for the parties.

2. The petitioner has approached this Court for a direction to the respondents for promoting him to the post of Assistant Electrical Engineer with effect from 16.12.2004 as persons junior to him have been promoted to such post.



3. The petitioner had earlier come before this Court for the same relief vide C.W.J.C. No. 15515 of 2017 which was disposed of by order dated 26.04.2018 giving liberty to the petitioner to prefer a representation before the Chairman-cum-Managing Director, Bihar State Power (Holding) Co. Ltd., Vidyut Bhawan, Bailey Road, Patna (respondent no. 2) within a period of two weeks who in turn was directed to be disposed of within four weeks thereafter.

4. Pursuant to the aforesaid direction, the petitioner preferred a detailed representation before the respondent no. 2 on 08.05.2018 but the same has yet not been responded to. Even a reminder to the concerned respondent has not yielded any result. Per force, the petitioner has approached this Court for a direction to the respondents to dispose of the representation of the petitioner and promote the petitioner to the aforesaid post.

5. It has been submitted on behalf of the petitioner that in the seniority list of Junior Electrical Engineers (general) cadre, the petitioner was posted at serial no. 948. After completing 10 years of service, he became eligible for promotion in the year 1995. However, before any decision on



the promotion could be taken, the petitioner was made accused in a vigilance case bearing Patna Vigilance Case No. 02 of 2002 which was instituted on 16.01.2002 under Sections 379 and 120B of the Indian Penal Code and Section 13 of the Prevention of Corruption Act. It has been submitted that in the aforesaid case, there is no allegation against the petitioner and in fact the petitioner had long been transferred from the place where such raid was conducted. For some reason or the other, merely because the petitioner had served in some capacity at the place where the raid was conducted, the petitioner also was made accused. It has further been submitted that a departmental promotion committee though was constituted to consider the promotion of Junior Electrical Engineers to the post of Assistant Electrical Engineer but because of the vigilance case referred to above, the case of the petitioner was not considered and juniors to him were promoted. It has been submitted that charge sheet in the case was submitted later than the decision of the departmental promotion committee in the year 2006.

6. The learned counsel has also drawn the attention of this Court to the resolution of the Board dated 19.12.2003



wherein it has been resolved that a government servant against whom a criminal case has been lodged and the investigation is pending, the pendency has to be reckoned from the date of the charge sheet and not from the date of institution of the case. Learned counsel has also urged that the Board should have adopted the procedure as delineated in case of *Union of India vs. K.V. Janki Raman* reported in *AIR 1991 SC 2010*.

7. Apart from this, it has also been submitted that when there was a specific direction of this Court vide order dated 26.04.2018 in C.W.J.C. No. 15515 of 2017 to dispose of the representation of the petitioner within a period of four weeks of the receipt of such representation, there was no reason for the respondent no. 2 to have sat tight over the matter and not decide the representation and communicate the decision to the petitioner. This only adds insult to the injury and cannot be countenanced on any score.

8. Keeping the representation of the petitioner pending despite the direction of this Court makes respondent no. 2 liable for being asked for an explanation for the same. However for the present, this Court only deems it appropriate to direct respondent no. 2 to consider all the grounds urged in



the representation referred to above and dispose it off by a reasoned order within a period of four weeks positively from the date of receipt/production of a copy of this order.

9. If the claim of the petitioner is found to be tenable, the respondent no. 2 shall also pass/caused to be passed consequential sequel order in accordance with law. The timeline given to the respondent no. 2 should be strictly adhered to and in the event of the representation not being disposed of within the aforesaid period, the petitioner would have the liberty to approach this Court again.

10. With the aforesaid direction/observation, the writ petition is disposed of.

(Ashutosh Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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