IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5586 of 2015

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Shailendra Kumar S/o Late Bindhayal Prasad R/O Mohalla- New Shital Tola, P.S. Ara, Nawada, District- Bhojpur.

... ... Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Secretary, Regional Transport Authority, Patna Division, Patna.
3. The Commissioner, Patna Division Patna.
4. The Collector of District Bhojpur at Ara.
5. The Addl. Collector, Dist. Bhojpur at Ara.
6. The Accountant General Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Pranav Kumar
For the Respondent/s	:	Mr.Gautam Bose

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
Date : 19-02-2019

Heard learned counsel for the petitioner, the respondent State as also learned counsel for the respondent Accountant General.

2. Petitioner was promoted to the post of Circle Inspector-cum-Kanungoo on 01.12.2004 from the post of "Rajashwa Karamchari." The petitioner was due to retire on 31.07.2012 just few months prior thereto and after having served eight years as Circle Inspector, the promotion was sought to be withdrawn from the date of its grant by Annexure 2 consequent to the order dated 14.05.2012 issued by the Regional Transport Authority, Patna Division, Patna. Consequent to the said order recoveries have also been made from the petitioner of

the emoluments of the promoted post which were made available to the petitioner for the eight years period during which he worked as Circle Inspector. Without any show cause or without any proceeding the promotion of the petitioner has been withdrawn. The imposition of such severe penal consequences without affording any opportunity of hearing leading to such recoveries cannot be sustained by any stretch of imagination as the law does not permit imposition of civil consequences without complying with the Principles of Natural Justice. Apart from that this Court would consider that the respondents are seeking to justify the withdrawing of the promotion granted to the petitioner by referring to the Bihar Junior Revenue Service Rules, 2004 which provides for promotion to be granted to the post of Circle Inspector by a duly constituted committee.

3. Counsel for the State submits that since the petitioner's promotion was not by a duly constituted committee petitioner cannot avail the benefits of the same. Such submission of the State is also misplaced. From the documents i.e. letter dated 12.12.2011 issued by the Principle Secretary in the Department of Revenue and Land Reforms, it is obvious that the said Rule came into force with effect from 08.04.2005 i.e.

much after the petitioner’s promotion which was granted on 01.12.2004. The Rules therefore, cannot be made the basis of judging the validity of the petitioner’s promotion which was granted prior to the procedure being adopted under the said Rules.

4. For the reasons indicated herein above, the order dated 14.05.2012 withdrawing the petitioner’s promotion as Circle Inspector as also the consequential order dated 29.01.2013 purporting to give effect to the said letter dated 14.05.2012 by effecting recoveries from the petitioner are hereby quashed. As a result of quashing of the said orders, the petitioner would be entitled to all consequential benefits.

5. Writ petition stands allowed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	