

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1769 of 2019

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Dr. Fateh Faiyaz son of Late Fakhruddin Resident of- Dehti. P.S- Palasi, town
Araria, District- Araria

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, General Administration Department, Government of Bihar, Old Secretariat, Patna
2. Principal secretary, General Administration Department, Government of Bihar, Old Secretariat, Patna Bihar
3. Additional Secretary to the Government General Administration Department, Government of Bihar, Old secretariat, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeet Kumar
For the Respondent/s : Mr. Md.N.H.Khan (Sc1)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 01-02-2019 Heard Mr. Chitranjan Sinha, the learned senior

counsel for the petitioner and Mr. Haroon Qureshi, AC to SC-

1.

Petitioner has approached this Court for a direction
to the respondent authorities, particularly Respondent No. 2,
to consider the case of the petitioner for being promoted to
the post of Deputy Secretary or to any other equivalent post
on which the juniors to the petitioner have been promoted
and for a further direction to grant him the benefit of 2nd
A.C.P., which too has been granted in case of other persons
who are junior to the petitioner.



It appears that petitioner was proceeded against departmentally in the year 2006. After several years of the continuance of the departmental proceeding, the petitioner was punished with censor and lowering of scale. The petitioner had challenged the aforesaid order of punishment before this Court and this Court was of the view that it was a very harsh sentence and the petitioner deserved to be treated differently. The order of punishment was thus set aside and necessary sequel orders were directed to be passed within a period of three months. The State went in appeal, but the appeal could not be sustained.

Learned counsel for the petitioner has further informed this Court that in the criminal case in which the petitioner has been made accused, is still pending. However, in the aforesaid case, by an order of this Court, the charges have been directed not to be framed till the time other applications in this regard are decided.

The sum and substance of the argument on behalf of the petitioner is that in the departmental proceeding, the sentence which was imposed upon the petitioner has been



quashed by an order of this Court and the only difficulty in the petitioner being considered for being promoted to a higher post of Deputy Secretary is the pendency of the criminal case referred-to-above.

In that context, the petitioner has submitted that in the year 2017, his candidature for being promoted was considered by the Departmental Promotion Committee and his case was kept in a sealed cover. The case of the petitioner is at that stage only, despite the government circular dated 11.09.2002 directing that such matters ought not be kept in cold storage or on back-burner for an indefinite period and should be revisited in detail after every six months.

In view of the aforesaid circular which has been annexed with the writ petition, learned counsel for the petitioner only prays that the case of the petitioner be considered for promotion in the light of Clause - 4 and 5 of the aforesaid circular dated 11.09.2002.

Under such circumstances, the petitioner is directed to make a representation before Respondent No. 2 enclosing



a copy of this order, detailing the developments in the departmental proceeding and in the criminal case in which the petitioner is involved, on receipt of which representation, the Respondent No. 2 on verification of records and referring to all the attendant facts shall take a decision within a period of eight weeks thereafter. This Court expects that the representation shall be disposed off by Respondent No. 2 by a reasoned order.

With the aforesaid observation / direction, this writ petition stands disposed off.

(Ashutosh Kumar, J)

skm/-

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