

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1461 of 2018

In

Civil Writ Jurisdiction Case No.20557 of 2013

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Lalan Prasad Harizon Son Of Late Bhola Ram, R/O Mohalla- Sahid Gate
Dumraon, Ward No.13, Post- Dumaraon, P.S.- Dumaraon, District- Buxar. At
the time of Writ petition posted as Inspector of Excise at Shekhpura, District-
Shekhpura.

... .. Appellant/s

Versus

1. The State Of Bihar through the Commissioner of Excise and Prohibition
Department, New Secretariat Vikash Bhawan, Patna
2. The Secretary, Excise and Prohibition Department, New Secretariat, Vikash
Bhawan, Patna.
3. The Deputy Secretary, Excise and Prohibition Department, New Secretariat,
Vikash Bhawan, Patna.
4. The Superintendent Of Excise and Prohibition Department, Sheikhpora
District- Sheikhpora, Government of Bihar, Patna

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Nitesh Kumar, Adv.

For the Respondent/s : Mr.Pushkar Narayan Sahi- Aag6

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-09-2019

L.A. No.8475 of 2018

Having heard learned Counsel for the parties, we are
satisfied that the delay has been sufficiently explained. The
delay condonation application is allowed. The appeal shall be
treated to be within time.

L.P.A. No.1461 of 2018

Heard Shri Nitesh Kumar, learned counsel for the



appellant, and the learned counsel for the State.

The petitioner was promoted on 31st of July, 2009, but the same was withdrawn on the ground that the said promotion had been carried out in ignorance of the Bihar Excise Service (Recruitment and Service Conditions) Rules, 2009 that had already come into force with effect from 25th of May, 2009. The cancellation order was passed on only one ground, namely that the Departmental Promotion Committee (D.P.C.) as contemplated under the 2009 Rules as made effective from 25th of May, 2009 had not been properly constituted and the promotion order dated 31st of July, 2009 was, therefore, liable to be withdrawn.

Learned counsel for the appellant has been unable to point out any infirmity in the conclusion so drawn by the learned Single Judge in the impugned judgement or even in the impugned cancellation order.

Learned counsel has then invited the attention of the Court to a judgement of learned Single Judge in the case of Anil Kumar Azad vs. The State of Bihar & Ors. who was also one of the candidates whose promotion had been cancelled simultaneously with that of the appellant.

It is stated at the Bar that Anil Kumar Azad has



been re-considered and has been granted promotion.

Be that as it may, it is open to the Department to re-consider the claim of the appellant after a duly constituted D.P.C. takes into consideration the claim of the appellant. We, therefore, dispose of this appeal with the observation that in the event appellant is still in service then his claim for such promotion may be considered in accordance with 2009 Rules as expeditiously as possible.

(Amreshwar Pratap Sahi, CJ)

(Ashutosh Kumar, J)

K.C.Jha/-

AFR/NAFR	NAFR
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