

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9569 of 2021

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Dinesh Kumar Nikhil Son of Late Sunder Mahto, Resident of House No. 201,
Chandra Kutir Apartment, Sita Ram Path, Patel Nagar, P.S.-Shastri Nagar,
District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Home Department, Bihar, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Additional Director General of Police, Head Quarter, Patna, Bihar.
5. The Inspector General of Police, Head Quarter, Patna, Bihar.
6. The Deputy Inspector General of Police (Head Quarter), Patna, Bihar.
7. The Deputy Inspector General of Police (Personnel), , Bihar, Patna.
8. Rajesh Kumar Sinha, Inspector of Police, Special Branch, Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 18-02-2022

The matter is heard via video conferencing due to
circumstances prevailing on account of the COVID-19
pandemic.

2. State counsel accept notice for respondents.

3. In the instant petition, petitioner has prayed for
following reliefs:-

“1. That this is an application for
issuance of a Writ in nature of mandamus
commanding and directing the respondent



authorities to fix the seniority of the petitioner at par with the junior namely Rajesh Kumar Sinha (Respondent No. 8) and shift the date of promotion on the post of Sub Inspector as 6/01/2009 in place of 23/11/2011 from which date the junior to the petitioner have been promoted in the light of order dated 15/3/2019 passed in C.W.J.C. No. 11717 of 2017,. And also to give promotion to the petitioner on the post of Inspector of Police with effect from 30/8/2017 as the similar benefits have already been given to the other junior persons ignoring the legitimate claim of the petitioner with all consequential benefits for which the petitioner is legally entitled to. And/or issue any other appropriate Writ/Writs, direction/directions, order/orders for which the petitioner may be found legally entitled to in the facts and circumstances stated hereunder.”

4. Question for consideration in the present petition is whether petitioner is entitled to promotion to the post of Sub-inspector w.e.f. 06.01.2009, the date on which his junior is stated to have been promoted. The petitioner has been promoted in the year 2016. The petitioner had cause of action on 06.01.2009, the date on which his junior had promoted. The petitioner had again cause of action in the year 2016 stating that he has to be promoted to the post of Sub-inspector in the year 2009. In the light of Apex Court’s decision rendered in the case of *P.S. Sadasivaswamy Appellant V. State of T.N.* reported in



AIR 1974 SC 2271 in which it is held that for the purpose of promotion, the employee must approach the judicial forum within a period of six months. Assuming that petitioner had cause of action in the year 2016 with reference to the fact that he has been promoted to the post of Sub-inspector, at best he should have approached this Court within a period of six months. Further petitioner has not explained delay and laches in seeking promotion to the post of Sub-inspector w.e.f. 06.01.2009, the date on which petitioner's junior stated to have been promoted. If petitioner is extended the benefit of promotion to the post of Sub-inspector w.e.f. 06.01.2009, third party right would be affected, in other words, petitioner's immediate junior's right would be affected and he has not been arrayed them as party to the present petition. On these lacunas, the present petition cannot be entertained.

5. Accordingly, the instant petition stands dismissed.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	04.03.2022
Transmission Date	

