

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.4605 of 2018

In
Letters Patent Appeal No.199 of 2013

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Kaushal Kishore Mishra, S/o Sri Sheo Kumar Mishra, Resident of Mohalla-Dhirachak, P.S.- Anisabad, Distt.- Patna

... .. Appellant-Petitioner

Versus

1. The State of Bihar.
2. Shri Deepak Kumar, The Chief Secretary, Government of Bihar, Patna.
3. Shri Amir Subhani, Additional Chief Secretary-cum-Principal Secretary, General Administration Department, Government of Bihar, Patna.
4. Shri Bhim Prasad, Joint Secretary, General Administration Department, Government of Bihar, Patna.
5. Shri Siddheshwar Chaudhary, Under Secretary, General Administration Department, Bihar, Patna

... .. Opposite Parties-Contemnors

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Appearance :

For the Petitioner : None

For the Opposite Parties : Mr. Suman Kumar Jha, AC to AAG-3

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
and
HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 27-07-2022

Nobody appears for the petitioner.

2. Learned counsel for the opposite parties is present.

3. The instant application has been filed by the petitioner under Article 215 of the Constitution of India and Sections 12 and 15 of the Contempt of Courts Act to initiate contempt proceedings against the opposite parties for their wilfull disobedience to the judgment dated 17.07.2018 passed



by this Court in L.P.A. No.199 of 2013 whereby the respondents were directed to consider the claim of the petitioner for promotion to the post of Deputy Secretary with effect from 31.01.2011, i.e, the date from which the juniors to the petitioner were promoted to the post of Deputy Secretary from the post of Under Secretary of the Bihar Secretariat Assistants Cadre. The respondents were further directed to consider the claim of the petitioner expeditiously and preferably within a period of eight weeks.

4. A show cause has been filed on behalf of the opposite parties no.1 to 5.

5. Learned counsel for the opposite parties has drawn our attention towards para-9 and 10 of the show cause reply filed on behalf of the opposite parties, which read as under:-

“(9) That however, in compliance of the order dated 17.07.2018 passed in LPA No.199/2013 and also keeping in view the order/direction dated 13.02.2020 passed by the Hon’ble Court in the instant contempt petition, the petitioner has been granted regular promotions to the post of Deputy Secretary w.e.f. 03.02.2011 and also to the post of Director (Joint Secretary Level) w.e.f. 28.02.2013 with the date of joining of the juniors to the petitioner, to the post of Deputy Secretary and Director (Joint Secretary Level)



vide this departments Notification Memo No.3177 dated 02.03.2020 and Notification No.3660 dated 12.03.2020 respectively.

(10) That the deponent once again tenders his unqualified and unconditional apology for the delay caused in compliance of the order passed by this Hon'ble Court.”

6. He submitted that the opposite parties were pursuing legal remedies against the order passed by this Court in LPA No.199 of 2013 by filing Special Leave Petition as well as Civil Review Petition before the Supreme Court. There was no deliberate and wilfull disobedience on their part in complying with the order. Once the Special Leave Petition and Civil Review Petitions were dismissed, the opposite parties considered the claim of the petitioner and vide Notification bearing Memo No.3177 dated 02.03.2020 and Notification bearing Memo No.3660 dated 12.03.2020 granted regular promotion to the petitioner to the post of Deputy Secretary with effect from 03.02.2011 and to the post of Director with effect from 28.02.2013 respectively. He contended that for the delay, if any, the opposite parties have also tendered unqualified and unconditional apology.

7. Having perused the show cause reply filed on behalf of the opposite parties and heard the learned counsel for



the opposite parties, we are satisfied that against the order dated 17.07.2018 passed in LPA No.199 of 2013 the opposite parties were pursuing legal remedies before the Hon’ble Supreme Court in accordance with law. Moreover, since the order passed by this Court has already been complied with, as would appear from the show cause reply filed on behalf of the opposite parties and they have tendered unqualified apology for the delay, if any, no proceedings is made out.

8. Thus, the application is disposed of.

(Ashwani Kumar Singh, J.)

(Chakradhari Sharan Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
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