

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1678 of 2019

Janardan Pandey Son of Late Ramayan Pandey resident of Village and P.O. Kalyanpur, P.S. Durgawati, District- Kaimur. At present posted as Assistant Teacher in Upgraded Middle School, Siyapokhar, Anchal Mohaniya, District Kaimur

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Education Department, Government of Bihar, Patna.
2. Director, Primary Education, Bihar, Patna.
3. District Primary Teacher Promotion Committee, Kaimur through its Chairman, District Education Officer, Kaimur at Bhabua.
4. District Education Officer, Kaimur at Bhabua.
5. District Programme Officer (Estb.), Kaimur at Bhabua.
6. Block Education Officer, Mohaniya, District Kaimur
7. Headmaster, Upgraded Middle School, Siyapokhar, District- Kaimur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Jitendra Prasad Singh

Mr. Prabhat Kumar Dipak

For the Respondent/s : Smt.Shilpa Singh (Ga12)

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

5 02-12-2023 1. The present writ application has been filed for a direction to the respondents to grant promotion to the petitioner on the post of Headmaster with all consequential benefit.

2. Learned counsel for the petitioner submits that gradation list of the Assistant Teacher was prepared on 10.04.2012 for promotion to the post of Headmaster and juniors



to the petitioner were promoted on 23.02.2013. Promotion of the petitioner was not considered because there was departmental proceeding pending at that point of time which culminated in the order of punishment passed on 01.09.2015. Learned counsel referring to Rule 14 explanation (iv) of the Bihar Government Servants (Classification, Control & Appeal) Rules, 2005 [for short "Bihar CCA Rules, 2005] submits that as per explanation (iv) the effect of penalty shall be in effect from the date of issuance of punishment order withholding two increments of the petitioner and claim of promotion cannot be considered during the period of operation of this penalty. Since the petitioner was awarded withholding of increments for two years as such the effect of that punishment will also operate for two years. As per Rule 14 explanation (2)(iv) of the Bihar CCA Rules, 2005 the effect of punishment came to an end starting from 01.09.2015 up to 01.09.2017. He next submits that another punishment of censure was awarded on 18-05-2017 for which show cause was issued on 23.05.2012. Learned counsel submits that Rule 14 explanation (2)(i) of the Bihar CCA Rules, 2005 says that adverse effect of censure on confirmation and promotion of the concerned Government servant shall be for next three consecutive years after the year of allegation or omission and



commission for which the employee has been censured. Accordingly his submission is that since the allegation leading to passing order of censure against the petitioner was levelled against him in the year 2012 as such by operation of Rule 14 explanation 2 (i) of the Bihar CCA Rules, 2005 the effect of censure shall be operative upto 12.02.2015. The respondent authorities though have granted promotion to the petitioner on 15-09-2023 but the petitioner was entitled to be given promotion at least with effect from year 2017.

3. Learned counsel for the State submits that promotion has already been granted to the petitioner and no retrospective promotion can be given. After the recommendation of the D.P.C. the petitioner has been promoted with effect from 15-09-2023.

4. Having heard learned counsel for the parties and taking into consideration the nature of controversy in the present writ application, in my opinion the petitioner may file a detailed representation regarding his promotion with back date before the concerned respondent i.e. respondent no. 4 / District Education Officer, Kaimur at Bhabua within a period of one month from today and if such a representation is filed, the respondent no. 4 is directed to consider and dispose the same in



accordance with law within a further period of three months from the date of filing of the representation.

5. With the aforesaid observation and direction, the writ application is disposed of.

(Anil Kumar Sinha, J)

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