

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4175 of 2023

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Murari Ram S/o Late Permeshwar Ram, R/o Village Khurdkol, P.S.- Amarpur,
District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Social Welfare Department, Government of Bihar, Patna.
2. The Principal Secretary, Person with Disability Empowerment-cum- Social Security, Social Welfare Department, Government of Bihar, Patna.
3. The Assistant Director, Person with Disability Empowerment-cum- Social Security, Social Welfare Department, Government of Bihar, Patna.
4. Assistant Director district Social Security Cell Collectorate, Bhagalpur.
5. The Head Master, the Government Deaf and Dum Residential Middle School, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Raj Kumar, Adv
For the State : Mr.Md. Raisul Haque (SC 10)

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 04-09-2023 Heard learned counsel for the petitioner and

learned counsel for the State.

2. The petitioner claims to be a Group-D employee seeking promotion to Class-C post (Clerk cadre). The admitted position is that promotion is to be considered based on seniority amongst those employees of Group-D post, who fulfil the requisite criteria of matriculation or equivalent.

3. The learned counsel for the petitioner submits that one post in Group-C is available. The petitioner, however, has not been considered or granted promotion to Group-C post.



4. The vacancy against which he is claiming a promotion occurred on 30.06.2015. This Court finds from the averments in the writ petition that after the vacancy occurred, his writ petition, for the same relief in C.W.J.C. No. 11102 of 2011, was dismissed on 20.07.2016. The order of the writ Court, as contained in Annexure-2 to the writ petition, reads as follows:

“It is case of the petitioner that he was appointed as night guard in the year 1985 and thereafter he got ‘Madhyama’ Certificate which is equivalent to Matriculation in the year 1988. Learned counsel for the petitioner by way of referring to Annexure – ‘I’ to the writ petition i.e. a government resolution dated 31.3.2011 submits that since the petitioner is an employee of group ‘Gha’ and he is having requisite qualification i.e. ‘Madhyama’ equivalent to Matriculation he is entitled to be promoted against Class III post . However, it is not a case of the petitioner that any person junior to the petitioner has been promoted from Class IV post to Class III post. It is settled law that one may not claim promotion as a matter of right and as such no writ can be issued for directing for promotion. Had it been a case of ignoring petitioner’s case and accommodating any person junior to the petitioner this court would have interfered.

However, after some argument, learned counsel for the petitioner makes a prayer for disposal of the present writ petition so that petitioner may approach the authority concerned.

The prayer is allowed.

The writ petition stands disposed of



with liberty as indicated above.”

5. It is not the petitioner’s case, as per averments made in the writ petition, that the situation has changed. The Court has put specific query to the learned counsel for the petitioner to show where he has asserted to be the senior most person so as to stake a claim to the post vacated on 30.06.2015, by virtue of seniority or by asserting that someone junior to him has been considered. Learned counsel for the petitioner fairly submits that there is no such averments in the writ petition.

6. In view of such submission, there is no change in the circumstances based on which the petitioner is seeking promotion or consideration in respect thereof after disposal of his earlier writ petition arising out of C.W.J.C. No. 11102 of 2011.

7. The writ petition is clearly untenable and not maintainable. The same is dismissed.

(Madhuresh Prasad, J)

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