

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21058 of 2013

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Kamlesh Kumar Singh Son Of Sri Sunder Bihari Singh Resident Of Friends Colony, Road No.2, Ashiana Nagar, P.O. Ashiana Nagar, P.S. Rajiv Nagar, District - Patna 800025

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of Forest and Environment, Government of Bihar, Patna
2. The Principal Secretary, Department Of Forest And Environment, Government Of Bihar, Patna
3. The Additional Secretary, Department Of Forest And Environment, Government Of Bihar, Patna
4. The Deputy Secretary, Department Of Forest And Environment, Government Of Bihar, Patna
5. The Principal Chief Conservator Of Forest, Bihar, Patna
6. The Conservator Of Forest, Working Plan Forest Circle, Patna
7. Sri Pravin Kumar Son Of Not Known To The Petitioner Presently Posted As Assistant Conservator Of Forest
8. Sri Ram Kumar Jha Son Of Not Known To The Petitioner Presently Posted As Assistant Conservator Of Forest
9. The Chief Conservator Of Forest, Forest Working Plan, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar, Advocate
For the Respondent/s	:	Mr. S.Raza Ahmad, Senior Advocate AAG-5
		Mr. Vishwambhar Prasad, AC to AAG-5.

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 02-02-2023 The petitioner by way of this writ petition has prayed for grant of promotion from the date person junior to him was accorded promotion after the punishment of his dismissal from service was quashed and set aside in CWJC No. 3369 of 2004 by this Court vide order dated 19.10.2005. The petitioner also prays that he should be granted benefit of first and second ACP



which was not given to him till date.

2. A supplementary counter affidavit has been filed by respondent nos. 2 to 4 and it has been stated under para-8 as under:-

“That with regard to statement made in para 8, 9, 12, 13, 16 of the reply of petitioner about promotion on post of Assistant Conservator of Forest it is submitted that in para 6 and 7 of counter affidavit it has been mentioned that name of petitioner was considered for promotion by the Departmental Promotion Committee under chairmanship of Bihar Public Service Commission but his name was not recommended for promotion. In this regard it has been mentioned in para 8 and 9 of the counter affidavit that ACR of the period 89-90, 90-91 and 91-92 of petitioner was adverse which was communicated to him. The ACR of year 92-93 and 93-94 was found to be average. Further a departmental proceeding was pending against him in which he has finally been awarded penalty as has also been admitted by petitioner in Para 10 of his reply. Hence, under the criteria of merit cum seniority for promotion under the Rules the persons who were found meritorious than petitioner, though junior to petitioner, were recommended for promotion on the post of Assistant Conservator of Forests by the DPC held under chairmanship of Bihar Public Service Commission.”

3. Keeping in view the aforesaid record of service of the petitioner, this Court is satisfied that the petitioner could not have been promoted on merit-cum-seniority basis as it does not fall within the criteria since he had adverse remarks to his discredit for the year 1989 and 1991- 92 and there was a penalty also awarded to him at the time of consideration although the



penalty has been quashed subsequently by this Court and the petitioner has been re-instated, the same would make no difference so far as consideration for promotion is concerned as the same is an inter-se competitive selection on the criteria of merit alone.

4. The further claim of the petitioner for grant of first ACP and second ACP on completion of requisites period of service while holding the said post, however, requires to be taken into consideration by the respondents. The consideration for grant of ACP is different from that of grant of merit promotion.

5. In view of a supplementary affidavit, the respondents have stated that second ACP and third ACP have already been granted to the petitioner and in view thereof, since the relief has already been granted and the orders regarding revision has also been placed on record. No further relief can be granted to the petitioner.

6. The writ petition stands disposed of accordingly.

(Sanjeev Prakash Sharma, J)

Brajesh Kumar/-
Item no.41

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