

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25278 of 2013

Bisheshwar Das son of late Ram Lakhan Das, R/o Niga, P.S. Barauni,
District-Begusarai

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Law, Bihar, Patna.
2. The Hon'ble Patna High Court through the Registrar General
3. The Chairperson, Appointment Committee, Civil Court, Begusarai cum the District and Sessions Judge, Begusarai
4. The Appointment Committee Civil Court, Begusarai, through its Secretary, the Judge in Charge, Begusarai.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Suneil Kumar Thakur, Advocate
For the Respondent/s : Mr.Prasoon Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 12-07-2023

1. The present writ petition has been filed for quashing the office order dated 03.09.2013 issued by the District & Sessions Judge, Begusarai so far as he has not been promoted from Class-IV to Class-III post.

2. The brief facts of the case, according to the petitioner, are that he was appointed on the post of Peon (Class-IV post), on 26.06.1987 at Civil Court, Patna and became permanent during the course of time. He was transferred to the Begusarai Judgeship as a Peon on 02.03.1988, whereafter he has been discharging his duties to the satisfaction of all concerned. On 07.07.2013 the petitioner had appeared along with others in



the written test for being appointed to Class-III post by way of promotion from Class-IV post and being successful he had also appeared in the interview held in the Chamber of District & Sessions Judge, Begusarai on 15.07.2013, however, out of 13 only 11 candidates were selected by the Appointment Committee and the name of the petitioner was not present in the list of successful candidates.

3. The learned counsel for the petitioner has submitted that the petitioner is B.A. Honours and he is a Scheduled Caste candidate and as far as his seniority is concerned, except two selected candidates no one is senior to the petitioner. It is further submitted that since the selection by way of promotion is on the basis of merit-cum-seniority, even ignoring the seniority of the petitioner goes against the spirit of Section 34 of the Bihar Civil Court Staff (Class-III & Class-IV), Rules, 1992, hence the impugned order dated 03.09.2013 is fit to be set aside.

4. Per contra, the learned counsel appearing for the High Court has submitted, in the



context of the reliefs prayed for by the petitioner that appointment by way of promotion is made according to Rule 8(1) to (3) of the Bihar Civil Court Staff (Class III and Class IV) Rules, 2009. Rule 8(1) of the Rules, 2009 reads as follows:-

"The appointments to Class III posts by promotion from Class IV posts shall also be made by the Appointment Committee on merit-cum-seniority basis."

5. It is also submitted that for appointment by way of promotion from Class-IV to Class- III post in the Judgeship of Begusarai, a written test was held on 07.07.2013 and interview was held on 15.07.2013. The written test and interview were conducted by the Appointment Committee of the said Judgeship. In the written test out of 13 candidates, 12 candidates passed the test except Sri Shatrughan Rajak. The Appointment Committee also considered the case of the petitioner, who though passed the tests but had adverse remarks in his service book and, therefore, the Appointment Committee unanimously resolved that it would not



be justified to promote the petitioner to Class-III post in the interest of administration. The adverse remarks against the petitioner are as follows:-

(i) He was suspended vide order No. 96(M) dated 06.07.94 of the District Judge, Begusarai for interpolation in charge sheet. His suspension order vacated on 06.03.1995.

(ii) He was again suspended vide order No. 205 dated 09.10.1996 of the District Judge, Begusarai for dereliction of duty. He was reinstated vide his order No. 24 (M) dated 30.01.97. The period of suspension was counted towards punishment. In addition, the petitioner was warned that if such dereliction of duty is found in future, he would be seriously dealt with.

(iii) In view of order dated 21.07.97 of the District Judge, Begusarai, the representation of the petitioner for time bound promotion had been rejected on the ground that his service record was not satisfactory and he has been twice suspended.



6. The learned counsel for the respondent -High Court has further submitted that the District Judge, Begusarai vide letter dated 17.07.2013 sent a list of 11 successful candidates in order of merit-cum-seniority, who had been selected by the Appointment Committee for their appointment by way of promotion from Class-IV post to Class-III post in view of Rule 8 of the Bihar Civil Court Staff (Class III and Class IV) Rules, 2009 for approval by the High Court on the administrative side. Thus, it is submitted by the learned counsel for the respondent-High Court that in view of the above facts and circumstances, since according to Rule 7(ii) of the Rules, 2009 the qualifying marks is 45 and Sri Nathuni Rajak had secured 36 marks in the written examination, the Court considered the matter at length and approved the select list of 11 candidates, excluding Nathuni Rajak, for their appointment by way of promotion from Class-IV to Class III post, subject to arrangement of the select list as per merit, completion of three years of service by the candidates and the candidates



possessing graduate degree and the same was communicated to the Judgeship of Begusarai vide letter No. 11091/Adm. Misc. dated 26.8.2013.

7. I have heard the learned counsel for the parties and perused the materials on record. A bare perusal of the aforesaid facts and circumstances of the case would show that the claim of the petitioner for his appointment by way of promotion from Class-IV post to Class-III post is not sustainable as he has been found not fit for promotion in view of the above adverse remarks pertaining to his discharge of duties on Class-III post (which also includes serious misconduct of him having interpolated a charge sheet) and moreover, the said decision is in the interest of administration, apart from the fact that it is not the case of the petitioner that he has taken recourse to any legal remedy, available to him, against the said adverse remarks, with a successful outcome. The claim of the petitioner to the effect that he is entitled for appointment by way of promotion on the basis of seniority alone or only because he



belongs to the Schedule Caste category are against the provisions contained in the aforesaid Rules,2009 and thus not sustainable in the eyes of law. This Court further finds that the petitioner has not impleaded the Class-IV employees who have been promoted to Class-III posts, hence the present writ petition is also fit to be dismissed on the ground of non-joinder of parties.

8. Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, I do not find any merit in the present writ petition, hence the present writ petition stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	NAFR
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