

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20974 of 2012

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Chandrika Pd. Kiran Son Of Late Chatthu Bhagat Resident Of A- 42, Police Colony, Anishabad, P.S. Gardanibagh, Town and District Patna

... .. Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Home (Police) Department, Government of Bihar, Patna
2. The State of Jharkhand, through Principal Secretary Home Department, Government of Jharkhand, Ranchi
3. The Accountant General, Bihar, Patna
4. The Accountant General, Jharkhand, Ranchi

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Chandrika Prasad Kiran (in person)
For the Accountant General: Mr. Rajan Prakash, Advocate
For Respondent No. 1 : Mr. Anuj Kumar, AC to GP-24

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 26-04-2023

In the instant petition, petitioner has prayed for following reliefs:-

"That the present application is for issuance of a writ in the nature of Mandamus for a direction to the Secretary, Home (Police) Department, Government of Bihar to pay the scale of Staff Officer (Rs. 14300-18,300) with retrospective effect from 01/01/1996 to 06.03.1996 as per the decision of Government of Bihar dated 22/03/07 whereby Juniors to the petitioner have been given the said Pay Scale and also for fixation and pay the difference of the arrears and also fixation of retiral benefits accordingly."

The grievance of the petitioner- party in person is that he is entitled to promotion to the post of Staff Officer w.e.f.



01.01.1996, the date on which certain vacancies were occurred. It is to be noted that as on 07.03.1996, he has entered in the Non-IPS Cadre by virtue of his service particulars. His claim is entitlement to the post of Staff Officer in the State of Bihar Cadre during the period from 01.01.1996 to 06.03.1996. The cause of action accrued to the petitioner from 01.01.1996 to 06.03.1996. His immediate junior who is at Serial No. 68 in the feeder cadre seniority list vide Annexure-14, Manohar Prasad Singh, was promoted to the post of Staff Officer w.e.f. 07.03.1996 vide Office Order dated 22.03.2007. In other words, he has been retrospectively promoted to the post of Staff Officer w.e.f. 07.03.1996. Assuming that petitioner had cause of action on 22.03.2007 to contend that he is entitled to promotion to the post of Staff Officer during the period from 01.01.1996 or 07.03.1996, the date on which Manohar Prasad Singh was promoted to the post of Staff Officer. He has not assailed the order of promotion of Manohar Prasad Singh in order to claim promotion to the post of Staff Officer with reference to order 22.03.2007 (Annexure-A) by which Manohar Prasad Singh was promoted to the post of Staff Officer. Whereas present petition was presented in the year 2012 after lapse of about five years. On the issue of delay in approaching this Court, petitioner- party



in person submitted that he was serving out of Bihar, therefore he came to know only in the year 2012 that his junior has been promoted and that apart, vacancy of Staff Officer was occurred in the month of January, 1996. It is to be noted that he has attained age of superannuation and retired from service on 30th June, 2007. Even if date of retirement is taken into consideration, still there is delay of five years in seeking promotion to the post of Staff Officer. In the absence of challenge to the promotion order of Manohar Prasad Singh and further in not timely approaching this Court, the petitioner is not entitled to promotion to the post of Staff Officer during the period from 01.01.1996 to 06.03.1996 (any of the date). Apex Court in the case of ***P.S. Sadasivaswamy Appellant V. State of T.N.*** reported in ***AIR 1974 SC 2271*** held that insofar as promotion and seniority, the affected person must approach judicial forum within a period of six months. Said principle was reiterated by the Apex Court in the case of ***Vijay Kumar Kaul and Ors. v. Union of India***, reported in ***(2012) 7 SCC 610***. Further recently Apex Court in the case of ***State of Himachal Pradesh & Ors. Vs. Raj Kumar & Ors.*** reported in ***(2023) 3 SCC 773*** held that merely occurrence of promotional vacancy does not give any right to employee/officer to claim promotion. In other words, there is no fundamental right to claim promotion with reference to merely



occurrence of any vacancy. Even on this count, petitioner is not entitled to claim promotion to the post of Staff Officer during the intervening period from 01.01.1996 to 06.03.1996 in the year 2012 and that too after retirement from service on 30th June, 2007.

Accordingly, the present writ petition stands dismissed.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	29.04.2023
Transmission Date	N.A.

