

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9238 of 2017

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1. Udai Kumar Tiwari, S/o Late Jagannath Tiwari, resident of at and P.O. Asha Pakari, P.S.- Simri, District- Buxar, presently residing at Rukunpura, Baily Road, P.S.- Rukunpura, Patna-14.
 2. Arun Kumar Singh, aged about 55 years, S/o Late Rajeshwari Prasad Singh, House No.36, C.D.A. Colony, P.S.- Shastri Nagar, Patna-23.
 3. Manish Kumar, aged about 46 years, S/o Late Fanibhushan Mishra, resident of Ashiyana More, P.S.- Shastri Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Old Secretariat Building Patna.
2. The Principal Secretary, Department of Cooperation, Vikash Bhawan, Patna.
3. The Principal Secretary, Department of General Administration, Old Secretariat, Patna.
4. The Principal Secretary, Finance, Old Secretariat, Patna.
5. The Registrar, Cooperative Societies Bihar, Patna, Vikash Bhawan, Patna.
6. The Joint Registrar, Cooperative Societies Bihar, Patna, Vikash Bhawan, Patna.
7. The Deputy Registrar, Cooperative Societies, Bihar, Patna, Vikash Bhawan, Patna.
8. The Assistant Registrar (Leave Reserved), Cooperative Societies, Bihar, Patna, Vikash Bhawan, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mukeshwar Dayal, Advocate Mr. Vikas Mohan, Advocate
For the Respondent/s	:	Mr. Subodh Kumar, AC to SC 26.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 09-01-2024

The petitioners who were appointed as Co-operative Extension Officers, are aggrieved by the additional



promotional avenues provided in the said cadre by Co-operative Extension Officer Cadre Rules, 2014 (hereinafter referred to as the 'Rules of 2014').

2. The petitioners contention is that as per the Bihar Co-operative Administrative Service Cadre (Recruitment and Service Conditions) Rules, 2011, the post of Assistant Registrar was available, for filling up by promotion from Co-operative Extension Officer and by direct recruitment; 50 percent each. The said rule has been interfered with and now a different cadre is provided for the purpose of promotion of Co-operative Extension Officer; which is asserted to be constitutionally invalid, for it being violative of the provisions of Articles 14 and 16 of the Constitution.

3. The respondents have filed a counter affidavit pointing out that the rules were amended so as to benefit the employees who were stagnating in the post of Co-operative Extension Officer without promotion to the post of Assistant Registrar, despite long service. It is also contended that the Rule was brought out after following due procedure; which includes concurrence of Pradhikrit Samiti, opinion and legal vetting of Law Department and also approval of the State Cabinet.

4. The first petitioner was appointed as a Co-



operative Extension Officer on 23.10.1989, the second on 11.12.1989 and the third petitioner on 25.09.1998. They are placed in the seniority list of the Co-operative Extension Officers as produced in Annexure-2, respectively at Sl. No. 140, 70 and 442. The first and the second petitioners retired in the year 2022 and 2023 and the third petitioner is still in service. The fact remains that none of them have been promoted from the post of Co-operative Extension Officer, despite their appointment having been made in the year 1989 and 1998. This fact supports the stand of the Department that the rules were brought in to benefit the said cadre, thus, enabling promotional avenues.

5. The learned counsel, who argued in the matter, was unable to convince us that there is any constitutional invalidity insofar as the rule framed. As we noticed, for more than 30 years, the first and the second petitioners and the third petitioner for more than 20 years were remaining in the post to which they were initially appointed. The petitioners do not have a case that any of their juniors were promoted to the post of Assistant Registrar. The contention is also that despite their '*Kalawadhi*' having been completed they have not been promoted. However, they have not sought for a consideration



for promotion till date; despite the '*Kalawadhi*' having been completed. Presumably there are no vacancies to be filled up and there are no juniors promoted to the higher post of Assistant Registrar.

6. The Rules of 2014, in fact, provided additional promotional avenues, one as a Senior Co-operative Extension Officer and the next as the Chief Co-operative Extension Officer. The petitioners have a case that the cadre Co-operative Extension Officer has been bifurcated and hence, the Co-operative Extension Officer itself has been downgraded.

7. We cannot countenance the said contention since even if, for the promotional post, the cadre was subdivided, it only enures to the benefit of the Co-operative Extension Officers. There is also no substance in the contention that their pay would be reduced since any employee continuing in a post is entitled to pay protection. We reiterate that there is no contention of denial of promotion or reduction of pay nor even degradation of duties. The very fact of the petitioners having continued for long years without any promotions persuade us to sustain the rule, which, in fact, provided additional promotional avenues to the post of Co-operative Extension Officer.



8. We find the challenge to be devoid of merit and the writ petition is liable to be dismissed, leaving the parties to suffer their costs.

(K. Vinod Chandran, CJ)

(Rajiv Roy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	12.01.2024
Transmission Date	

