

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10471 of 2024

Sanjeev Kumar Son of Bandelal Mandal Resident of Ward No.-07, Barbanna, Bangali tola, Anchal-Raniganj, P.S.-Raniganj, District-Araria, Bihar Pin Code-854334.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, General Administration Department, Bihar, Patna.
2. The Additional Chief Secretary, General Administration Department, Bihar, Patna.
3. The Secretary, General Administration Department, Bihar, Patna.
4. The Additional Secretary, General Administration Department, Bihar, Patna.
5. The Under Secretary, General Administration Department, Bihar, Patna.
6. The Officer on Special Duty, General Administration Department, Bihar, Patna.
7. Shri Harendra Prasad S/o not Known at Present Posted as In-Charge Section Officer, Bihar Police Headquarter, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Fakhruddin Ali Ahmad, Adv., Mr. rajkamal Biswas, Adv., Mr. Pawan, Adv.
For the State	:	Mr. Sheo Shankar Prasad, SC-8, Ms. Ruchikar Jha, AC to SC-8

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 15-07-2024

The petitioner was posted as Assistant Section Officer in the Bihar Secretariat Service under the General Administration Department. As per seniority list published by the General Administration Department, the petitioner is the senior most employee in the cadre of Assistant Section Officer. Sometimes in



October, 2023, the General Administration Department decided to grant promotion on officiating basis to the post of Section Officer in the Bihar Secretariat Service.

2. It is the grievance of the petitioner that his candidature was not considered by the General Administration Department on the ground that previously he was punished by the Department by stoppage of increment and denial of promotion for three years w.e.f. 3rd October, 2019 to 30th June, 2022.

3. It is contended by the petitioner that the period of his punishment ends on or from 30th June, 2022. Therefore, he was eligible for consideration of promotion. The selection of which took place after 30th June, 2022. He submitted a representation, but it was rejected by the Additional Secretary vide Annexure-P/8. Subsequently, on the basis of the application filed by the petitioner the decision of the Under Secretary (Annexure-8) was referred to the Departmental Complaint Redressal Committee under the Bihar State Litigation Policy. The Committee also took the same decision.

4. It was decided by the Under Secretary by passing an order in Annexure- P/8 that by a departmental order no. 5066, dated 11th April, 2019, the State Government imposed restriction of promotion for undisclosed period. Subsequently, the said embargo



was withdrawn and in the year 2023, the person who belongs immediately next to the petitioner was promoted on officiating basis as Section Officer. Since, the State Government put an embargo in promotion, according to the respondents authority the petitioner is required to wait for three years from the date of promotion of the junior colleague of the petitioner.

5. The learned Advocate on behalf of the State respondents in his argument tried to support the decision taken by the Department.

6. Having heard the learned counsels for the parties and on perusal of the entire materials on record, this Court fails to understand as to how the petitioner's candidature was decided to be not considered when his period of punishment was already over. It is not petitioner's fault for imposition of embargo by the State Government in the matter of promotion since 2019 to 2022. If the promotion was not granted for three years by a decision of the State Government, the order of punishment cannot be held to be stayed for the reason that during the said period no promotion was given to any candidate.

7. For the reasons stated above, I am not in a position to be in conformity with the reasons made out in Annexure-P/8 and Annexure-P/12. The said two decisions are accordingly quashed.



8. The respondents, specially, the Additional Chief Secretary, General Administration Department, Bihar, Patna, respondent no. 2 is directed to decide the representation of the petitioner (Annexure- P/7) afresh in the light of the observation made by this Court hereinabove within 60 days from the date of communication of this order and pass a reasoned order after giving opportunity to the petitioner of being heard, if necessary.

9. Accordingly, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

pravinkumar/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	
Transmission Date	

