

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14059 of 2024

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Rabindra Kumar Jha Son of Late Durganand Jha, Resident of Village-Simaria,
P.O. and P.S.-Jokihat, District-Araria (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The District Magistrate cum Collector, Kishanganj.
4. The District Establishment Deputy Collector, Kishanganj.
5. Md. Naushad Alam, Clerk, Collectorate, Kishanganj.
6. Md. Mukhtar Alam, Clerk, presently promoted as Head Clerk, Kishanganj Collectorate, Kishanganj.
7. Md. Azmal Yajdani, Clerk, presently promoted as Head Clerk, Kishanganj Collectorate, Kishanganj.
8. Sri Pashupati Mandal, Clerk, presently promoted as Head Clerk, Kishanganj Collectorate, Kishanganj.
9. Sri Shrawan Kumar Sah, Clerk, presently promoted as Head Clerk, Kishanganj Collectorate, Kishanganj.
10. Sri Devashish Chkravorty, Clerk, presently promoted as Head Clerk, Kishanganj Collectorate, Kishanganj.
11. Sri Ashok Kumar Sahani, Clerk, presently promoted as Head Clerk, Kishanganj Collectorate, Kishanganj.
12. Sri Dilip Kumar Das, Clerk, presently promoted as Head Clerk, Kishanganj Collectorate, Kishanganj.
13. Md. Matin Akhtar, LDC, presently promoted as UDC, Kishanganj Collectorate, Kishanganj.
14. Smt. Sarita Devi, LDC, presently promoted as UDC, Kishanganj Collectorate, Kishanganj.
15. Md. Farooque, LDC, presently promoted as UDC, Kishanganj Collectorate, Kishanganj.
16. Sri Ashish Kumar LDC, presently promoted as UDC, Kishanganj Collectorate, Kishanganj.
17. Sri Ajay Kumar, LDC, presently promoted as UDC, Kishanganj Collectorate, Kishanganj.
18. Sri Amiri Lal Paswan, LDC, presently promoted as UDC, Kishanganj Collectorate, Kishanganj.
19. Sri Gajendra Kumar Sharma, LDC, presently promoted as UDC, Kishanganj Collectorate, Kishanganj.
20. Md. Irtaza Alam, LDC, presently promoted as UDC, Kishanganj Collectorate, Kishanganj.



torate, Kishanganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Subodh Kumar Jha, Advocate
Mr. Pranav Kumar Jha, Advocate
Mr. Chandra Mohan Jha, Advocate
For the State : Mr. Nawal Kishore Singh, AC to GP-26

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 19-09-2024 Heard Mr. Subodh Kumar Jha, learned counsel along with Mr. Pranav Kumar Jha and Mr. Chandra Mohan Jha learned counsels appearing on behalf of the petitioner and Mr. Nawal Kishore Singh, learned AC to GP-26 appearing on behalf of the State.

2. The petitioner, in paragraph no. 1 of the present writ petition, has sought, *inter alia*, the following relief(s), which is reproduced hereinafter:-

“1.That this writ application is being filed for issuance of an appropriate writ/writs or order/orders in the nature of Mandamus, commanding and directing the Respondents to consider the case of the petitioner for his promotion on the post of Head clerk in the Kishanganj Collectorate by correcting the seniority list of Kishanganj Collectorate Clerk cadre published on 2.12.2023, putting the petitioner at Sl. No.25 instead of Sl. 41 in the said seniority list as the petitioner deserves for such consideration in view of the different order, letter and circular issued by the General Administration Department, Government of Bihar, Patna and as much as the principle laid down



by this Hon'ble Court in C.W.J.C. No.17935/2017 and in Civil Appeal No.7514/2015 by Hon'ble Supreme Court of India which has not been followed by the Respondent Collector while preparing the seniority list of said promotion and further on such consideration the petitioner may be promoted on the post of Head Clerk by correcting the Section B & C of Gradation list made by the office of the Respondent Collector office order dated 8.12.2023 and accordingly placed the name of the petitioner at Sl. No.25 and grant the petitioner all service benefit on promoted post at least from the date persons junior to the petitioner have been promoted and further for any other appropriate relief or reliefs for which the petitioner is found entitled in the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner being aggrieved by the provisional gradation list, had represented before the Competent Authority, who was bound to correct the seniority of the petitioner in light of Bihar Collectorate Clerical Cadre (Recruitment and Service Condition) Rule, 2011 as amended upto date. The petitioner was placed at Sl. No. 38 and without considering his objection, he has been placed at Sl. No.41 in final gradation list depriving the petitioner to be promoted to the post of Head Clerk, as similarly situated Assistants/clerks have been promoted to the post of Head Clerk. Aggrieved by the action of the respondent, the petitioner has filed objection to the final Gradation List, wherein, he has been placed at Sl. No.41. Learned counsel further submitted that the respondents have not



relied on the circular bearing Memo No. 821 dated 23.03.2011 (amended uptodate), according to which, the petitioner should have been placed at Sl. No.25 and considering the said fact, the petitioner has filed objection to the final gradation list, in accordance with the provision of Bihar Collectorate Clerical Cadre (Recruitment and Service Condition) Rule, 2011 and the law laid down by the Apex Court in the case of **Union of India & Ors. Vs. N. R. Parmar & Ors.**, reported in (2012) 13 SCC 340.

4. Considering the submissions made on behalf of the petitioner, who has already filed objection before the Competent Authority, in respect of consideration of his claim that he must be placed at Sl. No.25 which entitles him to be promoted to the post of Head Clerk, I direct the District Magistrate, Kishanganj to take a final decision on the representation of the petitioner expeditiously, as the objection of the petitioner is pending since 16.11.2023 and give due promotion, in accordance with law, to the post of Head Clerk and if he finds that the claim of the petitioner is not sustainable, then in that case, he is bound to give due opportunity to the petitioner and all the affected persons who are affected by the final gradation list, so that, further third party right may not be



allowed to be created in any manner.

5. With the aforesaid direction/observation, the present writ petition stands disposed of.

(Purnendu Singh, J.)

Mantreshwar/-
Ashishsingh/-

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