

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.705 of 2022

In
Civil Writ Jurisdiction Case No.19974 of 2019

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Mritunjay Kumar Son of Late Hari Narayan Resident of Sri Krishna Nagar,
Rahika Tola, Araria Town, P.O.-Araria, Police Station-Araria, District-Araria
then Posted as Additional Collector, Disaster Management, Patna.

... .. Appellant/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Govt. of Bihar, Patna.
3. The Deputy Secretary, General Administration Department, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Ram Binod Singh, Advocate
For the Respondent/s : Mr. P.K. Verma (AAG-3)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 20-02-2024

The appellant is aggrieved with the non-consideration of his case for promotion on 18.06.2014 when a Departmental Promotion Committee (for brevity 'DPC') was convened. The appellant was appointed to the Bihar Administrative Service as a Deputy Collector and he was promoted as an Additional Collector on 25.10.2013. He was



800 in the seniority list published by the State Government.

When the DPC was convened in the year 2014 for promotion to the post of Joint Secretary, he was not considered, is his case. His juniors were selected.

2. The appellant slept over his rights and did not do anything with respect to the selection conducted. He neither sought for a consideration at the appropriate time nor did he challenge the selection of his juniors.

3. The appellant, then filed a representation after about five years on 15.03.2019, which was not considered and for consideration of which, the appellant approached this Court. The learned Single Judge rejected the case of the appellant on the ground that there is gross delay and that the appellant has not sought to challenge the non-consideration at the appropriate time.

4. Learned counsel for the appellant relies on the decision in *Tarsem Singh v. Union of India & Others* reported in (2008) 8 SCC 648, that there is a continuing wrong and it should be rectified and if at all, the promotion can be granted 3 years prior to his representation.

5. We do not think that *Tarsem Singh (supra)*



applies at all. In illustrating the examples where there is a continuous wrong, it was specified in ***Tarsem Singh*** (*supra*) that in cases where it relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay, as it does not affect the rights of third parties. It was also specified that when the claim involved issues relating to seniority or promotion affecting others, delay would render the claim stale and doctrine of lapses or limitation will be applied.

6. In the present case, the claim is for a consideration in a DPC which was convened as early as in 2014. The appellant, if he had a claim for consideration, it should have been raised at the appropriate time. Admittedly, his juniors were considered and were promoted above him, which too was accepted without demur. After five years, there cannot be a consideration relating back to 2014. There is no continuing wrong insofar as the appellant is concerned and the denial of consideration for promotion cannot be challenged after five years.

7. The appellant's counsel, then submits that he has not been considered till date. Admittedly, there has not



been a further DPC convened to consider promotion to the post of Joint Secretaries. Then the appellant submits that at least in the next opportunity, he may be considered. We cannot pass anticipatory directions and, if at all, he comes within the zone of consideration and is eligible to be considered and is not considered, then he would have to take appropriate remedies available to him, when the wrong occurs.

8. The writ petition stands dismissed.

(K. Vinod Chandran, CJ)

(Harish Kumar, J)

Anushka/-

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