

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1534 of 2024

Pradeep Kumar Son of Late B.N. Prasad, Director, Ministry of Micro, Small and Medium Enterprises, Government of India, Patliputra Industrial Estate, Patna-800013.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Micro, Small and Medium Enterprises, Government of India, Nirman Bhawan, Maulana Azad Road, New Delhi- 110108.
2. The Additional Secretary and Development Commissioner, Ministry of Micro, Small and Medium Enterprises, Government of India, Nirman Bhawan, Maulana Azad Road, New Delhi- 110108.
3. The Development Commissioner (MSME), Ministry of Micro, Small and Medium Enterprises, Government of India, 'A' Wing 7th Floor, Nirman Bhawan, Maulana Azad Road, New Delhi-110108.
4. The Deputy Director (IEDS) Office of the Additional Secretary and Development Commissioner Ministry of Micro, Small and Medium Enterprises, Government of India, Nirman Bhawan, Maulana Azad Road, New Delhi- 11001
5. The Secretary Department of Personal and Training Government of India, New Delhi- 110001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Shivajee Singh, Adv.
For the Respondent/s	:	Mr.Deepak Kumar, Sr. C.G.C.
		Mr. Arvind Kumar, C.G.C.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 09-05-2024

The petitioner has assailed the order dated 17.11.2023 passed in O.A. No. 050/00580/2023 by the Central Administrative Tribunal, Patna Bench, Patna (for short "CAT").

2. Grievance of the petitioner is insofar as challenge to the order dated 23.11.2022/ 02.12.2022. It is in



respect of rejection of his representation dated 14.06.2022, insofar as consideration of his name for promotion to the post of Additional Development Commissioner in Senior Administrative Grade (SAG) under IEDS in Grade Pay of Rs. 10,000/-.

3. The CAT has extracted the communication dated 23.11.2022/ 02.12.2022 taking note of the gist of the reasons for rejection of the petitioner's representation is that petitioner does not fulfill the requisite experience qualification of three years for promotion to the post of Additional Development Commissioner in the cadre of Director. CAT has also taken note of the fact that petitioner was promoted to the post of Director in the month of July 2021. Without any protest he has accepted the promotion to the post of Director in the month of July 2021. Now, the petitioner cannot turn around and say that he is entitled to be promoted to the post of Director in the year 2017. If such retrospective promotion is given to the post of Director, in that event he would be fulfilling the requisite experience for the post of Additional Development Commissioner. Such contention is not acceptable for the reasons that there is no challenge to the promotion to the post of Director in the month of July 2021 while contending that he is



entitled to be promoted to the post of Director with effect from 2017. Cause of action accrued insofar as rectification of the date of promotion to the post of Director was in the month of July 2021 as and when he was promoted to the post of Director. Till date he has not assailed promotion to the post of Director notified in the month of July 2021 and seeking retrospective promotion to the post of Director in the year 2017. Even at this belated stage he is not entitled to claim for the reasons that promotion/recruitment were issues which were required to be agitated before the court of law within a reasonable period of six months from the date of cause of action accrued to such of those aggrieved persons. This principle has been held by the Hon'ble Supreme Court in the case of *P.S. Sadasivaswamy vs. State of Tamilnadu* reported in (1975) 1 SCC 152. The same principle has been reiterated subsequently in the case of *Vijay Kumar Kaul and Others vs. Union of India and Others* reported in (2012) 7 SCC 610.

4. Taking note of the aforementioned principle, the petitioner has not fulfilled the requisite three years of experience for the purpose of promotion to the post of Additional Development Commissioner. Therefore, there is no infirmity in the communication dated 23.11.2022/ 02.12.2022



by which official respondents have rejected petitioner's representation insofar as claim for promotion to the post of Additional Development Commissioner and it has been affirmed by the CAT in its order dated 17.11.2023 passed in O.A. No. 050/00580/2023. Therefore, the petitioner has not made out a case so as to interfere with the CAT order dated 17.11.2023.

5. Accordingly, the present petition stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

shahzad/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	14.05.2024
Transmission Date	N.A.

