

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1710 of 2019

In
Civil Writ Jurisdiction Case No.18181 of 2016

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1. The State Of Bihar through the Principal Secretary, Labour Resources Department, Government of Bihar, Patna.
 2. The Labour Commissioner, Bihar, Patna.
 3. The Joint Labour Commissioner, Bihar, Patna.
 4. The Joint Labour Commissioner, Patna Division, Patna.

... .. Appellant/s

Versus

Satish Kumar Singh, Son of Sir Singheshwar Prasad Singh, Resident of Mohalla Garden Bazaar Phulari, P.O. and P.S. Munger, District- Munger.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Parijat Saurav (Ac To Aag 10)
For the Respondent/s : Mr.Bijay Shankar Choubey, Advocate

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

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 09-07-2024

Appellant-State has assailed the order of learned Single Judge dated 11.07.2019 passed in CWJC No. 18181 of 2016.

2. Core issue involved in the present *lis* is whether *Satish Kumar Singh* is entitled to be promoted to the post of Labour Enforcement Officer against vacancy read with the rules of recruitment and seniority. On this issue, a detailed order was passed on 09.05.2024 and it reads as under:-



“Ref: I.A. No. 01 of 2019

Heard I.A. No. 01 of 2019 read with the Supplementary Affidavit for condonation of delay of about 126 days in filing Letters Patent Appeal No.1710 of 2019. For the reasons stated in application read with the Supplementary affidavit, delay of about 126 days in filing Letters Patent Appeal No.1710 of 2019 stands condoned.

2. Accordingly, I.A. No. 01 of 2019 stands allowed.

3. Core issue involved in the present lis is whether Respondent – Satish Kumar Singh is eligible to be promoted to the post of Labour Enforcement Officer prior to attaining age of 45 years (Maximum age limit 45 years) prescribed in the method of recruitment to the promotion.

4. Learned counsel for the appellants submitted that in the light of Annexure-3, the cut-off date for the purpose of consideration of names of LDC for promotion to the post of Labour Enforcement Officer is 26.08.2016 as on that date Respondent – Satish Kumar Singh was overaged. However, what is the significance of fixing a cut-off date as 26.08.2016 is not forthcoming. Further, seniority-list of LDC read with promotional vacancy occurred prior to 26.08.2016 is not forthcoming. If the vacancy occurred prior to 26.08.2016 and for no fault of the Respondent – Satish Kumar Singh and the promoting authority failed to promote such of those persons, who are eligible for promotion to the post of Labour Enforcement Officer; in such an event, there is no fault on the Respondent – Satish Kumar Singh. In fact, there is a default on the part of the official Respondent/Promoting Authority in not taking necessary steps to fill up the



promotional post, which have been occurred prior to 26.08.2016.

5. In this regard, necessary material shall be placed on record to the extent that promotional vacancies were stated to have been occurred in the year 2011 in the light of the fact that Respondent – Satish Kumar Singh is claiming promotion from the year 2011. Therefore, the concerned Promoting Authority is hereby directed to furnish necessary material to show that there were promotional vacancies during the intervening period from the year 2011 to 26.08.2016. If it is not available, in that event, Promoting Authority shall file his personal affidavit to the extent that during the intervening period from the year 2011 to 26.08.2016, there were no promotional vacant vacancies of the post of Labour Enforcement Officer and vacant Labour Enforcement Officers posts were occurred only on 26.08.2016.

6. For filing such affidavit, relist this matter on 04.07.2024.”

3. Personal affidavit of the concerned officer has been filed on 04.07.2024 (2nd Supplementary affidavit on behalf of the appellants), Para 7 reads as under:-

“ 7. That the Departmental Promotion Committee did not convene its meeting between 2011 to 2015 due to the ongoing litigations relating to reservation in promotion in which at various stages the policy of the State government granting reservation in promotion with consequential seniority was set aside/stayed by the Hon’ble Patna High Court.”

4. Due to pendency of litigation before Court of law would not make ineligible of *Satish Kumar Singh* to the extent that



he is overage on subsequent. In fact he was very much eligible to be promoted to the post of Labour Enforcement Officer under promotional quota at 25% read with availability of vacancies at the relevant point of time. This has not be disputed by the appellants.

5. Taking note of these facts and circumstances, the appellants have not made out a case so as to interfere with the order of learned Single Judge dated 11.07.2019 passed in CWJC No. 18181 of 2016. Accordingly, the present LPA No. 1710 of 2019 stands dismissed.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

abhishekk/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.07.2024
Transmission Date	NA

