

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.643 of 2025

In
Civil Writ Jurisdiction Case No.3299 of 2024

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Shweta Mishra Daughter of Shri Dinesh Kumar Mishra, Resident of G-1, 105, Sector- Goverdhan Kalindipuram, Rajrooppur, Allahabad, P.S.- Dhumanganj, District- Allahabad, Uttar Pradesh., at present posted as Sub-Divisional Public Grievance Redressal Officer, Manihari, Katihar.

... .. Petitioner/s

Versus

1. Dr. B. Rajender, Son of not known the state of Bihar through the Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
2. Smt. Rachana Patil, Wife of not known, Special Secretary, General Administration Department, Government of Bihar, Patna.
3. Mr. Md Sohail, son of not known, Joint Secretary, General Administration Department, Government of Bihar, Patna.
4. Smt. Anjula Prasad, Wife of not known, The Additional Secretary, General Administration Department, Government of Bihar, Patna.
5. Mr. Navin Kumar Singh, son of not known, The Special Secretary, Social Welfare Department, Government of Bihar, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Ashok Kumar Pathak, Advocate
		Mr. Chandan Kumar, Advocate
For the Opposite Party/s :		Mr. Kunal Tiwary, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 16-05-2025 Heard Mr. Ashok Kumar Pathak along with Mr. Chandan Kumar, learned counsels appearing on behalf of the petitioner and Mr. Kunal Tiwary, learned counsel for the State.

2. Learned counsel appearing on behalf of the petitioner informs that for non-compliance of the order dated 29.10.2024 passed in CWJC No.3299 of 2024, the petitioner has filed the present contempt petition. He informs that instead of



complying with order of this Court, the respondents have informed that the punishment imposed vide Memo No.9746 dated 25.05.2023 having already been set aside vide order dated 29.10.2024 passed in CWJC No.3299 of 2024, the government has set aside the same as evidenced vide Resolution No.559 dated 10.01.2025.

3. In this background, it has been informed in paragraph no.10 of the supplementary show cause filed on behalf of opposite parties No. 1 to 4 that the order has been complied with. It has further been informed in the show cause that the government as such found that filing of LPA does not arise.

4. Learned counsel for the petitioner in this background submitted that the petitioner becomes entitled for all the benefit and the petitioner seeks to file a detailed representation in this regard.

5. Recently the Apex Court in similar facts and circumstances in case of ***P. Sakthi Versus the Government of Tamil Nadu and Ors. (Special Leave Petition (C) No.30700 of 2024)*** vide its judgment dated 02.05.2025 has clarified *inter alia* in paragraphs No.3 and 5 which are as under:-

“3. True, the recruitment rules provided for disentitling an in-service candidate, if they did not have a clean record of service without any punishment



other than minor punishment of black mark, reprimand and/or censure. However, the appellant's punishment was interfered with and set aside by Annexure P/4 as early as 27.11.2009. The criminal case lodged against him on the similar set of facts had also ended in his acquittal.

4. The appellant was proceeded against both departmentally and under the criminal law for allegedly having beaten up a colleague when they were posted in a check post. After duty, some dispute arose between them and there was a brawl in which the other constable was injured. This led to a criminal case being lodged in which he was arrested but later acquitted. The departmental proceedings though entered in the finding of guilt with resultant punishment imposed, the same was set aside in 2009 by the Government as is evidenced from Annexure P/4. In such circumstances, the appellant could not have been disentitled from a consideration in the year 2019. The writ petition was also filed in the year 2019. In the above circumstances we are of the opinion that the appellant must be considered for promotion, de hors any disentitlement due to his having become overaged. The consideration will be made and if found eligible, he shall be promoted from 2019 and consequential benefits also shall be paid to him, since it was not his fault that the authority denied his consideration for promotion based on a punishment which had already been set aside. It is trite that the employee has no right to be promoted but has a right to be considered, when selections for promotions are carried out, unless disqualified; which right has been impinged, unjustly, in the above case.

5. The appeal stands allowed with the above directions."

6. In the present case also, the respondents admit in paragraph no.10 of the show cause that punishment order dated 25.05.2023 has been set aside by the Government vide Resolution No.559 dated 10.01.2025 and has also informed in paragraph no.15 that filing of LPA does not arise. In situation like this, the opposite parties instead of granting promotion and



consequential benefits to the petitioner during the period she became entitled for, cannot restrain themselves from said act in contemplation of any future departmental proceeding without any evidence. Such action shows the intent of the opposite parties to commit contempt.

7. In view of the clarification made by the Apex Court, the duty now remains for the opposite parties to act judicially to grant the right, which has been affected to the petitioner. The law does not permit acting otherwise to reopen the action.

8. It can only be held to be not possible to repose any confidence in the action of the opposite parties for the same event.

9. The contempt petition is thus consigned.

(Purnendu Singh, J)

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