

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2191 of 2017

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Satyendra Kumar Son of late Yadubir Singh Resident of Village-Masaurhi,
Road Masuarhi, P.S. Masaurhi, District Patna, At Present Adeshpal, Sent
Girija Kunwar Uchch Vidyalaya , Masaurhi, District Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Commissioner-cum-Director, Education Department, Bihar, Patna.
2. The Deputy Director Education Deparmtent, Bihar, Patna.
3. The District Education Officer, Patna.
4. The Head Master, Sent Girija Kunwar Uchch Vidyalaya, Masuarhi, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Janki Nandan Prasad, Adv
For the State : Mr. Aitesh Suman, AC to SC-13

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR SINHA
ORAL ORDER

10 10-11-2025 Heard learned counsel for the petitioner and learned
counsel for the respondent-State.

2. In the present writ application, the petitioner has
prayed for the grant of following reliefs:

*(i) To give/grant promotion to the
petitioner for which he is entitled and
promoted him on the post of Clerk
Considering the facts that he is graduate.
And/or pass such other order or orders as
deem fit and proper in the interest of Justice.*

3. Learned counsel for the petitioner submits that this
is the 2nd round of litigation and earlier also the petitioner had
filed CWJC No. 15093 of 2007 for seeking the same relief



which was disposed of by order dated 28.11.2011 (Annexure-5),
which reads as under:

“Having heard learned counsel for the petitioner and taking into account that stand of the respondent in its counter affidavit in paragraph no.6, reading as follows:-

“6. That, it is stated and submitted that there is no provision to grant promotion to a class-4 employee directly to class-3 post considering his educational qualification. As per guidelines issued by the Human Resources Development Department vide memo no.335 dated 16.9.1992 for promotion to the post of clerk, it has been laid down that 50% of the said post will be filled up from amongst the fourth grade employees through competitive examination. Thus, the relief sought for by the petitioner in this writ petition cannot be granted as per aforesaid guidelines of the Human Resources Development Department. The petitioner is only eligible for promotion to the post of class-3 employee only after participating and getting success in the competitive examination.”



this Court would direct the competent authority to now consider the grievance of the petitioner in the light of the later Government Instruction. Such grievance of the petitioner relating to his promotion from Class-IV to Class-III post will be considered with all other eligible persons strictly in accordance with law and a final decision as per the prescribed procedure will be taken within a period of six months from the date of receipt/production of a copy of this order.

Let it, however, be made clear that this Court has not decided the question on merit and has only gone by the stand of the respondent who has also not denied the claim of the petitioner for promotion but only has pointed out to the observance of the prescribed procedure.

In the light of the aforementioned observations and direction, this application is disposed of.”

4. He further submits that since the respondent-authorities were not complying with the order, therefore, the petitioner was compelled to file MJC No. 4644 of 2012 which was heard and disposed of on 30.10.2013 vide following order:

“Since this case has been restored today in view of the order passed in M.J.C.



No. 5032 of 2013, the counsel for the parties have also been on merits of this contempt petition.

2. From a bare perusal of the order of this Court dated 28.11.2011 passed in CWJC No. 15093 of 2007, it would appear that the petitioner a Peon in a Government High School is aspirant for his promotion on Class-III post and a direction had been given in the aforesaid order dated 28.11.2011 that the case of the petitioner will be considered along with all other eligible persons. Such direction in fact issued was on the basis of the earlier existing Government policy of holding written examination, as envisaged in the Government circular of 1986 followed by another circular of 1992.

3. It is however not in dispute that those provisions have since been obliterated and/or recalled and now promotion from Class-IV to Class-III posts is to be given on the basis of scanning of service records. Thus, while this Court cannot hold the opposite parties herein, in contempt it would still direct the authorities to consider the case of the petitioner along with other eligible persons for promotion on a Class-III post as per new Government policy.

4. With the aforesaid observations and direction, this application is accordingly



disposed of.”

5. Learned counsel for the petitioner submits that despite a positive direction given by the Writ Court as well as in the aforesaid MJC, till date the petitioner has not been promoted from Class-IV to Class III post of Clerk. Learned counsel for the petitioner, therefore, submits that the order passed in contempt jurisdiction is also not been complied by the respondent-authorities.

6. If this is the position then the petitioner ought to have revived the contempt application or should have filed 2nd contempt petition for non-compliance of the order dated 30.10.2013 passed in MJC No. 4644 of 2012 but instead thereof the petitioner has filed the present writ application, when apparently as per the petitioner, there is no lis now surviving to be further decided by this Court.

7. Learned counsel for the respondent-State, however, disputes the position being advanced by learned counsel for the petitioner.

8. Learned counsel for the petitioner submits that in the aforesaid facts and circumstances, the present writ application be disposed of with liberty to file a 2nd contempt petition for non-compliance of the order dated 30.10.2013 passed in MJC No. 4644 of 2012 read with order dated



28.11.2011 passed in CWJC No. 15093 of 2007.

9. As prayed for, the present writ petition is disposed of with liberty granted to the petitioner to pursue the remedy of filing 2nd contempt petition, if the petitioner so desires.

10. All pending interlocutory application(s), if any, shall also be deemed to have been disposed of.

(Alok Kumar Sinha, J)

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