

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15782 of 2013

Md. Shafi Quraishi, Son of Late Abdul Rasid, Resident of Village- Munsii Jee
Ka Gola, Ward No. 14, P.S. Daudnagar, District- Aurangabad (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Urban Development And Housing Department,
Government Of Bihar, Patna
3. The Divisional Commissioner, Magadh Division Gaya
4. The District Magistrate, Aurangabad
5. The Executive Officer, Nagar Panchayat Daudnagar, Aurangabad
6. Narendra Bhagat Son Of Bujhawan Bhagat Resident of Mohalla- Kadri
School, P.S. Daudnagar, District- Aurangabad
7. Ram Enzaran Tiwary Son Of Not None Resident of Mohalla- Tiwari
Mohalla, Bhakharua More, P.S. Daudnagar, District- Aurangabad

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Anil Kr Singh No. 6, Advocate
For the Respondents	:	Mr. Subhash Pd. Singh, GA-3
		Mr. Krishna Kant Tiwari, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

13 17-12-2025 1. Heard learned counsel for the petitioner and learned
counsel for the respondent-Daudnagar Nagar Panchayat.

2. The petitioner has filed the instant application for
the following reliefs :-

*“A. To give promotion to the
petitioner on the post of Head Clerk, Grade-III,
in the office of Nagar Panchayat Duadnagar,
Aurangabad with all monetary benefit.*

*B. To cancel the promotion of
respondents No. 6 (Sri Narendra Bhagat and*



respondent No. 7 Ram Enzoran Tiwari) who have been illegally promoted from Class IV (four) post of the post of Upper Division Clerk and Lower Division Clerk respectively.

C. To make an enquiry with regard to illegal promotions of respondents No. 6 and 7 and thereafter punished the persons, who are found involved in the matter.

D. And/or for any other appropriate relief (s) to the petitioner for which he may be found entitled to in the eye of law.”

3. The case of the petitioner in brief is that he was appointed as a Moharir/Clerk in the Office of Nagar Panchayat, Daudnagar, Aurangabad in February, 1979 and retired on 30.11.2016.

4. It is the case of the petitioner that as per the provisions of the Bihar Municipal Administrative Staff Cadre Rules, 2012 (Annexure-1) (herein after referred to as ‘the Rules of 2012’), the petitioner should have been promoted on completing 10 years of service, however no steps were taken by the respondents from 1989 till filing of the writ application. It is further submitted that respondent nos.6 and 7 who were junior to the petitioner and working in the same office were granted promotion illegally vide order dated 12.1.2011 and have become senior to the petitioner. The petitioner filed representation before



the respondent, however he has not received any reply thereto nor any order has been communicated to the petitioner with respect to grant of promotion to him on the post of Head Clerk, Grade-III in the Office of the Nagar Panchayat, Daudnagar, Aurangabad along with consequential monetary benefits.

5. The application is opposed by learned counsel appearing for the Nagar Panchayat. It is submitted that so far as the Rules of 2012 being relied upon by learned counsel for the petitioner is concerned, the same have not been adopted by the Nagar Panchayat, Daudnagar and are not applicable in case of the petitioner. Further referring to the supplementary counter affidavit filed on behalf of the Nagar Panchayat, learned counsel submits that recruitments etc. in the municipalities including that of the Head Clerk is guided by notifications. So far as the Rules of 2012 are concerned, the same were never in force for the purpose of promotion to any post. As such the writ application is fit to be dismissed.

6. Learned counsel for the Nagar Panchayat further submits that so far as direct appointment on the post of Head Clerk is concerned, the minimum qualification required is graduation. The petitioner herein is a matriculate in 3rd division. So far as respondent nos.6 and 7 are concerned, they were



appointed with the prior approval pursuant to the Board's resolution dated 11.1.2011. With respect to the petitioner it is submitted that he was placed under suspension in contemplation of a departmental proceeding.

7. Having heard learned counsel for the parties and having perused the material on record it transpires that the petitioner's claim for promotion on the post of Head Clerk, Grade-III in the Office of Nagar Panchayat, Daudnagar, Aurangabad with payment of all consequential monetary benefits has still not been decided by the respondent authorities. While it is the case of the petitioner that the petitioner ranks senior to the respondent no.6 who has already been granted promotion and has now become senior to the petitioner, the case of the respondent-Nagar Panchayat is that the petitioner was an accused in a criminal case and had been placed under suspension in contemplation of a departmental proceeding.

8. The substance of the facts stated herein above is that the Nagar Panchayat has still not taken a decision on the application/representation filed by the petitioner to give him promotion on the post of Head Clerk, Grade-III.

9. In view of the above, it is directed that the petitioner shall file a representation within a period of six weeks



before the Executive Officer, Nagar Panchayat, Daudnagar, Aurangabad (respondent no.5) for the reliefs prayed for in the instant application.

10. In case such a representation is filed, the same shall be decided by the Executive Officer (respondent no.5) within a period of three months from the date of its filing and consequential benefits, if any, found payable to the petitioner shall also be paid within the aforesaid period.

11. In case the representation of the petitioner does not find favour with the respondent, reasoned order for the same shall be communicated to the petitioner forthwith.

12. The writ application stands disposed of with the above observations and directions.

(Partha Sarthy, J)

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