

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.892 of 2023

In

Civil Writ Jurisdiction Case No.20974 of 2012

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Chandrika Prasad Kiran, S/o Late Chatthu Bhagat, R/o A - 42, Police Colony,
Anishabad, P.S. - Gardanibagh, District - Patna.

... .. Appellant/s

Versus

1. The State of Bihar through Principal Secretary, Home (Police) Department,
Government of Bihar, Patna.
2. The State of Jharkhand through Principal Secretary, Home Department,
Government of Jharkhand, Ranchi.
3. The Accountant General, Bihar, Patna.
4. The Accountant General, Jharkhand, Ranchi.

... .. Respondent/s

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Appearance :

For the Appellant/s	: Mr. Patanjali Rishi, Advocate
For the State	: Mr. P.K. Verma, AAG-3
For the Accountant General	: Mr. Arun Kumar Arun, Advocate
For the State of Jharkhand	: Mr. Sarva Deo Singh, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 20-03-2025

Re. I.A. No. 1 of 2023 :-

The aforesaid interlocutory application has



been filed seeking condonation of delay of 32 days in preferring the present appeal.

2. For the reasons stated in the application, the delay of 32 days in preferring the appeal is, hereby, condoned.

3. The I.A. No. 1 of 2023 stands allowed.

Re. L.P.A. No. 892 of 2023 :-

4. Heard Mr. Patanjali Rishi, the learned Advocate for the appellant; Mr. P.K. Verma, the learned AAG-3 for the State and Mr. Arun Kumar Arun, the learned Advocate for the Accountant General, Bihar, Patna. The State of Jharkhand has been represented by Mr. Sarva Deo Singh, Advocate.

5. The appellant stood retired on 30th of June, 2007.

6. The claim of the appellant/petitioner before the learned Single Judge was that he was wrongly kept out of promotion to the post of Staff Officer, on which post he should have been promoted on



01.01.1996. It was also urged by the appellant/petitioner before the learned Single Judge that his junior in the feeder cadre, namely, Manohar Prasad Singh, was appointed before him. He could not know about this anomaly in the promotion as he was serving in the State of Jharkhand. Immediately after his coming to know of his being kept out of promotion, he approached this Court in the year 2012.

7. The learned Single Judge, relying on the decisions of the Supreme Court in ***P.S. Sadasivaswamy Vs. State of Tamilnadu : AIR 1974 SC 2271; Vijay Kumar Kaul & Ors. Vs. Union of India : (2012) 7 SCC 610*** and ***State of Himachal Pradesh & Ors. Vs. Raj Kumar & Ors. : (2023) 3 SCC 773***, held that mere occurrence of promotional vacancy would not give any right to an employee to claim promotion, especially after several years of such promotion not having given to him when it fell due.

8. Even otherwise, the appellant has retired



from service way-back in the year 2007 and, therefore, has claimed only notional benefits of pay in the scale of Staff Officer with retrospective effect from 01.01.1996 to 06.03.1996. But, in the event of the appellant not having been promoted to that post, such prayer cannot be allowed.

9. We are not at contretemps with the judgment passed by the learned Single Judge, non-suiting the appellant/petitioner on the ground of having approached the Court several years later after his retirement.

10. Finding no merit in this appeal, we dismiss it.

(Ashutosh Kumar, ACJ)

(Partha Sarthy, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
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