

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11641 of 2023

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Arun Kumar Paswan S/o Late Amir Chand Paswan, Commandant, Border Security Force, 73 Battalion, BSF, Ajnala, Punjab, Permanent resident of 30, New Colony, Saharsa, P.S and District- Saharsa.

... .. Petitioner/s

Versus

1. The Union of India Through The Union Home Secretary, Central Secretariat, New Delhi.
2. The Boarder Security Force Through its Director General, C.G.O. complex, Lodhi Road, New Delhi.
3. The Director General, Boarder Security Force, C.G.O. complex, Lodhi Road, New Delhi.
4. The Commandant (Personnel) Boarder Security Force, C.G.O. Complex, Lodhi Road, New Delhi.
5. The Deputy Inspector General (Personnel) Boarder Security Force, C.G.O. Complex, Lodhi Road, New Delhi.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Saroj Kumar, Advocate
For the Respondent/s : Mr. Alok Kumar, CGC

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 29-07-2025

Heard learned counsel for the petitioner and learned counsel for the Union of India.

2. The present writ petition has been filed for the following relief/s:-

“I. For the issuance of an appropriate writ, including a writ in the nature of mandamus, and / or direction or order commanding the respondents to promote the petitioner to the rank of Deputy Commandant in the force



with effect from 24.4.2001 which has been long overdue.

II. For the issuance of an appropriate writ, including a writ in the nature of mandamus, or order or direction commanding the respondents that while promoting the petitioner to the rank of Deputy Commandant w.e.f 24.4.2001 i.e. the date on which his batchmates were promoted, the petitioner be given all the monetary and other consequential benefits, just like his batchmates.

III. For the issuance of any other appropriate writ/ direction/ order to ensure the grant of consequential reliefs in the facts and circumstances of the case.”

3. Learned counsel for the Union of India submits that the petitioner's case is legally barred, as the petitioner has previously approached this Hon'ble Court on three occasions, including in contempt proceedings and this is the fourth time. He submits that upon consideration of his case, this Hon'ble Court has pleased to grant promotion to the petitioner since 2003, but the petitioner seeks relief to provide his promotion w.e.f. 2001.

4. Learned counsel for the petitioner submits that it



is true that the petitioner has moved in contempt also bearing M.J.C No.2141 of 2019, but the said contempt petition was dismissed with liberty to sue further. Therefore, petitioner has moved before this Court.

5. After hearing the parties, it transpires to this Court that the petitioner has moved before this Hon'ble Court for the first time in C.W.J.C No.8400 of 2014 in which *vide* order dated 23.02.2015, the writ petition was disposed off with liberty to the petitioner to file a fresh representation giving all the details on the basis of which he would claim his promotion w.e.f. 14.07.2003 with all other consequential benefits dependent on shifting of date of his promotion w.e.f. 25.08.2004 to 14.07.2003. It was also directed that the said representation of the petitioner shall be disposed of expeditiously and by a reasoned order. Petitioner thereafter, filed his representation and on his representation, order was passed on 06.11.2015.

6. Thereafter, petitioner moved before this Hon'ble Court for the second time in C.W.J.C No.18952 of 2015 in which *vide* order dated 09.01.2018, the writ petition was allowed and the respondents were directed to consider the petitioner's claim for shifting back his date of promotion to the post of Deputy Commandant from 25.08.2004 to 14.07.2003



with all consequential benefits. Thereafter, petitioner has moved in M.J.C No.2141 of 2019 arising out of C.W.J.C No.18952 of 2015 in which *vide* order dated 01.09.2023, order has been passed that petitioner's date of promotion to the post of Deputy Commandant has been shifted to 30.09.2003. Since, the substantial compliance of Court's order dated 09.01.2018 passed in C.W.J.C No.18952 of 2015 has been made, therefore, the contempt petition stands dismissed. After disposal of the contempt petition on 01.09.2023, petitioner again moved before this Court and filed the present writ petition i.e. C.W.J.C No.11641 of 2023 with further prayer that the respondents be directed to promote the petitioner to the rank of Deputy Commandant in the force with effect from 24.4.2001.

7. In light of the submissions made, it transpires to this Court that the petitioner has previously approached this Hon'ble Court on three occasions, including in contempt proceedings (in C.W.J.C No.8400 of 2014, C.W.J.C No.18952 of 2015 & M.J.C No.2141 of 2019) with prayer to shift his date of promotion since 2003 and in that light, order has been passed twice which has been implemented also. Thereafter, petitioner started demanding to shift his promotion w.e.f. 2001. According to the principles of basic litigation that once the petitioner omit



to sue in respect of the relief of granting promotion since 2001 twice before this Court or intentionally relinquishes or not claimed his promotion w.e.f 2001, then subsequently, after grant of his promotion in the light of his prayer since 2003, he is not permitted to claim further to shift his promotion since 2001 as it is against the fundamental rules of litigation and barred under Order II of the Code of Civil Procedure, 1908 (Act No.5 of 1908) as well as constructive *res-judicata*.

8. As such, this Court is of the view that there is no case of the petitioner. Hence, this writ petition stands dismissed.

(Dr. Anshuman, J)

Divyansh/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	31/07/2025
Transmission Date	NA

