

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24123 of 2013

=====

Ram Niwas Singh S/O Late Raj Kumar Singh Resident Of Village-
Kandharpur, P.O and P.S- Sandesh, District- Bhojpur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director General- Cum- Inspector General Of Police, Bihar, Patna.
3. Additional Director General, Criminal Investigation Department, Bihar, Patna
4. Deputy Inspector General Of Police, Personnel Office Of Director General Of Police, Bihar, Patna
5. Superintendent Of Police, C, Criminal Investigation Department, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner : Mr. Rajesh Prasad Choudhary, Advocate
For the State : Mr. Prem Ranjan Raj, A.C. to S.C.7

=====

CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR
ORAL JUDGMENT

Date : 30-06-2026

Heard the learned counsel for the petitioner and the
learned counsel appearing on behalf of the State.

2. The present writ petition has been filed for
commanding the respondents to grant promotion to the
petitioner after fixing seniority between the direct recruit Sub-
Inspector of Patna of 1976 and the promotees Sub-Inspector of
Police who got promotion and training in the year 1976. Further
prayer has been made to grant all monetary and consequential
benefits.

SUBMISSIONS ON BEHALF OF THE PETITIONER



3. The learned counsel appearing on behalf of the petitioner submits that the petitioner, despite being senior to many of the Sub-Inspectors of the 1976 batch has been denied promotion, whereas the persons much junior or similar to the petitioner have been granted promotion as Dy.S.P. He submits that the respondents provided information to the petitioner under Right to Information Act, wherein they have accepted that Rule 659(a) of the Bihar Police Manual has not been followed, while granting promotion and thereby the petitioner has been denied his promotion on the basis of seniority. He submits that the respondents without fixing the inter se seniority in between the direct recruit Sub-Inspectors of Patna of 1976 batch and the promotees Sub-Inspector of Police, who were granted promotion and training in the year 1976. In terms of Rule 659(a) of the Bihar Police Manual, 50 % of the vacancies in the rank of Sub-Inspector has to be filled by selection from the rank of Assistant Sub-Inspectors, who have at least done a minimum of five years of service and only selected officers who have shown exceptional merit while serving as Assistant Sub-Inspectors will be promoted. He further submits that the authorities, while granting promotion to some of the direct recruit juniors, did not take into consideration Rule 659(a) of the Bihar Police Manual



and this fact has been accepted in the reply, which has been provided to the petitioner under Right to Information Act. The learned counsel for the petitioner further submits that the petitioner kept on filing representations before the authorities concerned for grant of promotion to him by fixing inter se seniority between the direct recruit Sub-Inspectors of Patna district of 1976 batch and the promotee Sub-Inspectors of Police, who got promotion and training in the year 1976. The learned counsel for the petitioner submits that the petitioner gave representation in the year 1998 and kept on filing representations till 2013, however no decision has been taken on his representations filed before the respondent authorities. Left with no option, the petitioner has filed the present writ petition. He further submits that the cause of action for filing the present writ petition has arisen in the year 2003, when the direct recruit juniors were promoted as Dy.S.P. and the case of the petitioner for grant of such promotion was not considered. He further submits that the authorities never published the final seniority list with regard to the direct recruit Sub-Inspectors of Patna district of 1976 batch and the promotee Sub-Inspectors of Police, who got promotion and training in the year 1976. He submits that the case of the petitioner was not considered by the



respondent authorities in complete violation of the provisions contained in Articles 14 and 16 of the Constitution of India, since the direct recruit Sub-Inspectors, who were junior to the petitioners, have been granted promotion, however the petitioner, despite being senior to them, has been denied his promotion on the post of Dy.S.P.

SUBMISSIONS ON BEHALF OF THE STATE-RESPONDENTS

4. *Per contra*, the learned counsel appearing on behalf of the State by referring to the counter affidavit submits that the petitioner was appointed as a Constable on 13.03.1970 and later on was promoted to the rank of A.S.I. on ad hoc basis on 20.08.1971. He submits that after some time he was reverted to the post of Constable on 30.06.1976 and again was promoted to the post of A.S.I. on ad hoc basis in the Special Branch on 14.12.1976. He was promoted to the post of A.S.I. after passing P.T.C. examination on 01.04.1982, therefore prior to regular promotion he was promoted to the post of A.S.I. on ad hoc basis and was reverted to the post of Constable on many occasion. The petitioner passed P.T.C. examination in 1977, as such he became eligible for promotion to the rank of A.S.I. after passing P.T.C. examination. The petitioner as well as immediate seniors and juniors to the petitioner were promoted to the post of Sub-Inspector of Police on 20.08.1994 and therefore his seniority in



the rank of Sub-Inspector of Police cannot be reckoned prior to 20.08.1994. He submits that the rule prescribed for promotion to the rank of A.S.I. is mentioned in Rule 660 of the Bihar Police Manual, whereby the hierarchy of the promotion has been defined. Rule 659(a) provides for promotion to the post of Assistant Sub-Inspector of Police. The learned counsel appearing on behalf of the State submits that the inter se seniority of the petitioner has been fixed at serial no.2581 in the gradation list issued vide Letter No.4932/P-2 dated 02.11.2004 and while the petitioner was posted in the State of Jharkhand, he was allowed ad hoc promotion to the rank of Inspector of Police vide Memo No.2181/P dated 18.09.2003 by the Police Headquarters, Jharkhand at Ranchi on the basis of his inter se seniority. Even none of the juniors to the petitioner were promoted to the post of Inspector of Police till his retirement.

5. The learned counsel appearing on behalf of the State refers to an order passed by the Hon'ble Supreme Court of India in **Special Leave Petition (Civil) No. 10653/1998 (State of Bihar & Ors. Vs. Kameshwar Prasad Singh & Anr.)** and its analogous cases, whereby the Hon'ble Supreme Court of India vide judgment dated 27.04.2000 has categorically held that no court can grant relief to a citizen by applying the concept



of negative equality. Only because the Government had committed a mistake by giving Brij Bihari Prasad Singh seniority w.e.f. 27.07.1971 as Inspector and under the threat of contempt, promotion w.e.f. 25.10.1975, the others who claimed to be similarly situated cannot force the Government to commit the same mistake and upon denial approach the High Court for issuance of appropriate directions.

6. The learned counsel for the State further refers to and relies upon a judgment of this Hon'ble Court in **L.P.A. No.1542 of 1995** and its analogous cases (**Ashok Kumar Khare Vs. The State of Bihar & Ors.**), whereby the Hon'ble Division Bench vide its order dated 11.12.2009 denied the said benefit to the persons who filed the appeal. The learned counsel for the State submits that no person junior to the petitioner was granted promotion even to the post of Inspector of Police, while he was in service.

CONCLUSION/CONSIDERATION

7. Having heard the rival submissions and after going through the records, it appears that the petitioner has filed the present writ petition, whereby he has prayed for grant of promotion, after fixing seniority between direct recruit Sub-Inspectors of Police and the promotees Sub-Inspectors of Police



who got promotion and training in the year 1976. It appears that if the relief sought for in the present writ petition is granted to the petitioner, the inter se seniority of the petitioner and others has to be reworked out and if in case any person who is senior to the petitioner in the gradation list which was published in the year 2004, comes below him in the seniority list, his rights has to be protected in as much as that no orders can be passed against any one without giving him an opportunity of being heard. In the present case, the petitioner has not made any of the persons, who are above him in seniority in the gradation list, 2004, as a party respondent. If the prayer sought for by the petitioner will be granted, many a person, who have got promotion on the post of Inspector of Police or the Dy.S.P., as per their seniority in the merit list, their promotion would be affected and in absence of them being made a party-respondent, the relief, so sought for by the petitioner, cannot be granted. The Hon'ble Supreme Court of India in a recent judgment in the case of **the State of Tamil Nadu & Anr. Vs. R. Sasipriya & Anr.**, passed in **Civil Appeal Nos.6883-6884 of 2026** and another analogous case in paragraph nos.25, 25.2 and 26 has held as follows:

“25. As far as the impleading applicant, K. Saravanakumar is concerned, he was



not party to any of the proceedings before the High Court, nor did he choose to intervene or seek impleadment in the lis between the appellant and Respondent No. 1. It is only before this Court that he sought impleadment. In paragraphs 31 to 33 of his affidavit, he himself states that disciplinary proceedings are pending against him, thereby showing that he is, in any event, not presently entitled to promotion.

*25.2. This Court finds him to be a fence-sitter. It is settled law that fence-sitters cannot be permitted to raise a dispute relating to seniority and consequential promotion or challenge the validity of an order after the matter has concluded. No party can claim relief as a matter of right, and one of the well-recognised grounds for refusing relief is that the person approaching the Court is guilty of delay and laches. A court exercising public law jurisdiction does not encourage the agitation of stale claims, particularly in matters of seniority and promotion, where the rights of third parties have crystallised in the interregnum [See **Shiba Shankar Mohapatra and others v. State of Orissa and others, (2010) 12 SCC 471**]. Therefore, no relief can be granted to the impleading applicant.*

26. As far as the impleading applicant, S. Velumayil is concerned, in his application, he himself admitted that in the revised seniority list, he is junior to the appellant and Respondent No. 1, and senior to K. Saravanakumar. Moreover, he raised objections to the consideration of the claim of the impleading applicant K. Saravanakumar. Since this Court has rejected the claim of K. Saravanakumar on the ground that he is a fence-sitter, the present impleading applicant is



also not entitled to any relief in these appeals.”

8. Considering the legal position as well as the fact that the petitioner has not impleaded any of the persons of the gradation list/seniority list as party respondent in the present writ petition, the writ petition is fit to be dismissed on account of non-joinder of parties. In view of the above, this Court do not find any merit in the present writ petition and the same is accordingly dismissed.

9. Pending application(s), if any, shall also stand disposed of.

(Ritesh Kumar, J.)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.07.2026
Transmission Date	NA

