

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.6732 of 2026**

=====

Mahendra Prasad Son of Kali Prasad @ Kali Mochi, Resident of North Nehru Nagar, P.S. Patliputra, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Honble High Court of Judicature at Patna Through Registrar General, Honble Patna High Court, Patna.
3. The Registrar General, Honble High Court, Patna.
4. The Registrar (Administrative), Honble High Court, Patna.
5. The Registrar (Establishment), I/C, Patna High Court, Patna.
6. The Law Secretary, Government of Bihar, Patna.
7. Anil Kumar Ravidas, Employment Code 5917, S.O., Patna High Court.
8. Shashi Bhushan Singh, Employment Code 6130, S.O, Patna High Court.
9. Ram Kumar Raghunayak, Employment Code 6111, S.O., Patna High Court.

... .. Respondent/s

=====

**Appearance :**

|                     |   |                                    |
|---------------------|---|------------------------------------|
| For the Petitioner  | : | Mr. Kumar Rakesh Chandra, Advocate |
| For the State       | : | Mr. S.C.9                          |
| For Res. Nos.2 to 5 | : | Mr. Piyush Lall, Advocate          |

=====

**CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR**  
**ORAL JUDGMENT**

**Date : 04-05-2026**

Heard the learned counsel for the parties.

2. The present writ petition has been filed for the following reliefs:

“(i) To issue an appropriate order/s direction/s including a writ preferably in the nature of certiorari for quashing the gradation list / Seniority list of sections officers working in the different sections / offices working in the different sections of the Hon’ble Patna High Court prepared on 01.11.2024 under the signature of Assistant Registrar Patna High Court whereby and where



under the name of the petitioner has been placed at Sl. No. 153 of the Seniority List taking into consideration that Juniors to the petitioner has been promoted to the post of Section Officer and name of petitioner has been placed at the lowest rank of the seniority list.

(ii) To direct the respondent Registrar General Hon'ble High Court of Judicature at Patna to place the petitioner's name in the rank of seniority and placed Sl. No. 36 of the Seniority / Gradation list dated 01.11.2024.

(iii) To direct the respondent concern to grant consequential benefit if any as if the petitioner's name could have been placed at Sl. No. 36 of the concern seniority / Gradation list.”

3. The brief facts, giving rise to the present writ petition, are that the petitioner was appointed on 22.08.2003 on the post of Assistant and he joined in the establishment of the Patna High Court in Grade Pay of Rs.4600/-. Subsequently, the petitioner became eligible to be promoted to the post of Section Officer on the basis of the seniority-cum-merit in terms of the Patna High Court Establishment (Appointment) Rules, 1997. The Registry of the Hon'ble Court published a notice contained in Memo No.21237-452/Accounts, dated 05.03.2019, that there shall be an interview for appointment on the post of Section Officer by way of promotion, which was scheduled to held on 08.03.2019 and 09.03.2019, however the same was later on extended to 27.03.2019. The petitioner and others appeared in



the said interview, however out of 214 candidates, only 120 candidates were given promotion to the rank of Section Officer and remaining 94 were kept in the waiting list. Subsequently, vide Memo No.25265-284/Accounts, dated 03.06.2020, again a notice was published that an interview for promotion to the post of Section officer will be held on 05.06.2020 in the Committee Room of the Hon'ble Court, wherein name of 20 persons, including the petitioner was mentioned. Vide Memo No.44177-44203/Accounts, dated 21.10.2020, issued under the signature of the learned Registrar General, Patna High Court, 9 persons were found suitable to be promoted to the post of Section Officer in Level-9 and the remaining persons, including the petitioner were informed that fixation of their pay in the pay structure of the higher post will be regulated under provisions of Fundamental Rule 22(1)(A)(i) and as such, they will have the option, to be exercised within one month from the date of issuance of this notification, to have their pay fixed in the higher post either from "the date of their promotion, or from date of their next increment, viz 1<sup>st</sup> July of the year." Subsequently the Rules of the Patna High Court were amended and in exercise of power conferred under Article 229 of the Constitution of India, the Patna High Court Officers and Staff (Recruitment,



Appointment, Promotion and other Conditions of Service and Conduct) Rules, 2021 was published in the Bihar Gazette (Extra Ordinary) No.35, dated 12.01.2021. As per Rule 6 of the Patna High Court Officers and Staff (Recruitment, Appointment, Promotion and other Conditions of Service and Conduct) Rules, 2021, minimum qualification/eligibility for filling up of the post of Section Officer on promotion from the eligible Assistants on the basis of seniority-cum-merit list was also prescribed. Again vide notice dated 22.02.2021, it was intimated that there shall be a written test of noting and drafting on 20.03.2021, in terms of Rule 6A(6) of the Patna High Court Officers and Staff (Recruitment, Appointment, Promotion and other Conditions of Service and Conduct) Rules, 2021, for promotion to the post of Section Officer amongst eligible Assistants. A list of 163 provisionally eligible Assistants was notified for appearing in the written test, including the petitioner. The name of the petitioner finds mentioned at Serial No.3 of the list dated 22.02.2021. The petitioner appeared in the examination, but could not succeed. Thereafter a representation was submitted before the Hon'ble the Chief Justice of this Court on 24.06.2021 by all the unsuccessful candidates of the written examination. On the orders of the Hon'ble the Chief Justice, a notice was



published on 15.11.2021, under the signature of the Registrar General of the Patna High Court with regard to conducting a noting and drafting test as per the Patna High Court Officers and Staff (Recruitment, Appointment, Promotion and other Conditions of Service and Conduct) Rules, 2021 for promotion to the post of Section Officer on 27.11.2021. Vide notice dated 28.01.2022, a list of 41 successful candidates was declared, including the petitioner and finally after computer proficiency test and other paraphernalia, the petitioner was promoted to the post of Section Officer. Thereafter, a seniority list of Section Officer was published on 10.11.2024, wherein name of the petitioner find placed at Serial No.153.

4. The learned counsel for the petitioner submits that the petitioner was appointed in the year 2003 and at the relevant time, the Patna High Court Establishment (Appointment Rule, 1997) was in force. Serial No.14 of the Schedule lays down that Senior Section Officers amongst Assistants shall be promoted as Senior Selection Grade Assistants on the basis of seniority-cum-merit list and there was no requirement of promotion to the post of Assistant to appear in the written examination test for being promoted to the post of Section Officer on the basis of Seniority-cum-Merit. He further



submits that the seniority list prepared by the authorities of the Patna High Court is erroneous and, therefore, is not sustainable. He submits that the petitioner's name should have figured at Serial No.36 of the seniority, taking into consideration the date of his appointment and while preparing the seniority list, persons junior to the petitioner have been placed above the petitioner.

5. The learned counsel for the petitioner further submits that the case of the petitioner for promotion is required to be considered under the old rule, i.e. 1997 Rule, since the petitioner's service condition is not governed by the new rules framed in 2021. He submits that as per rule 26 of the Patna High Court Officers and Staff (Recruitment, Appointment, Promotion and other Conditions of Service and Conduct) Rules, 2021, the seniority of the persons appointed to a post in the establishment prior to the commencement of these rules shall be such as was on the date of commencement of these rules. He submits that this rule excludes the person who have been appointed prior to coming into force of these rules and, therefore, his case is required to be considered for promotion in terms of the old rule, i.e., 1997 rules.

6. *Per contra*, the learned counsel appearing on



behalf of the Patna High Court submits that the petitioner has implicated only three persons as party respondents no.7 to 9 in the present writ petition, although he was required to implead all 154 persons mentioned in the list dated 01.11.2024, since if the petitioner will be granted promotion in terms of 1997 Rules, all the persons who have been granted promotion in terms of 2021 Rules and in terms of 1997 Rules prior to the petitioner will be affected, therefore, the writ petition filed by the petitioner is fit to be dismissed on account of non-joinder of parties.

7. The learned counsel appearing on behalf of Patna High Court refers to and relies on a judgment of the Hon'ble Supreme Court of India, reported in **(2010) 12 SCC 204 (Public Service Commission, Uttaranchal v. Mamta Bisht & Ors.)**, wherein in paragraph no.9, the Hon'ble Supreme Court of India has held as follows:

“9. In case Respondent 1 wanted her selection against the reserved category vacancy, the last selected candidate in that category was a necessary party and without impleading her, the writ petition could not have been entertained by the High Court in view of the law laid down by nearly a Constitution Bench of this Court in *Udit Narain Singh Malpaharia v. Board of Revenue*, wherein the Court has explained the distinction between necessary party, proper party and pro forma party and further held that if a person who is likely to



suffer from the order of the court and has not been impleaded as a party has a right to ignore the said order as it has been passed in violation of the principles of natural justice. More so, proviso to Order 1, Rule 9 of the Code of Civil Procedure, 1908 (hereinafter called “CPC”) provides that non-joinder of necessary party be fatal. Undoubtedly, provisions of CPC are not applicable in writ jurisdiction by virtue of the provision of Section 141 CPC but the principles enshrined therein are applicable. (Vide *Gulabchand Chhotalal Parikh v. State of Gujarat*, *Babubhai Muljibhai Patel v. Nandlal Khodidas Barot* and *Sarguja Transport Service v. STAT.*)”

8. Having heard the learned counsel for the parties and after going through the records, it appears that in terms of 1997 Rules, the petitioner appeared along with 214 Assistants for interview on 03.06.2020, but unfortunately was not found suitable by the Interview Board and thereby was not recommended for being promoted to the post of Section Officer. Subsequently, he again appeared for interview in terms of notice dated 05.06.2020, along with 20 other candidates, but he was again not found suitable by the Committee, consisting of three Hon’ble Judges of this Court and therefore, his name was again not recommended for being promoted to the post of Section Officer. Subsequently, the rules for making appointment/promotion of the Patna High Court was amended



in 2021 and the Patna High Court Officers and Staff (Recruitment, Appointment, Promotion and other Conditions of Service and Conduct) Rules, 2021 came into effect after being notified in the official gazette on 12.01.2021. Rule 25 of the said Rule deals with the seniority which is being quoted hereinbelow:

“25. Seniority.— Except as provided in Rule 26, seniority in each category of post in the establishment shall be determined by the date of order of appointment in a substantive capacity and names of the candidates appearing in the select list/panel (waiting list) shall be arranged in order of merit on the basis of marks secured in the written test and interview. In case of two or more candidates securing equal marks, seniority shall be determined in terms of rule 8 (c) Part V of these rules.

In case of appointment to a post is made against the vacancies of a year, the direct recruits shall rank senior to those appointed through limited competitive examination.

Gradation list shall be maintained in respect of all officers and staff of the Court.”

9. The plain reading of Rule 25 would suggest that in each category of post in the establishment is to be determined by the date of order of appointment in a substantive capacity and names of the candidates appearing in the select list/panel has to be arranged in order of merit on the basis of marks secured in the written test and interview and in case of



appointment to a post is made against the vacancies of a year, the direct recruits shall rank senior to those appointed through limited competitive examination and a gradation list of all officers and staff of the Court has to be maintained. Further, Rule 26 of the Patna High Court Officers and Staff (Recruitment, Appointment, Promotion and other Conditions of Service and Conduct) Rules, 2021 provides that “Seniority of the persons appointed to a post in the establishment prior to the commencement of these rules shall be such as was on the date of commencement of these rules.” From conjoint reading of Rules 25 and 26 of the Patna High Court Officers and Staff (Recruitment, Appointment, Promotion and other Conditions of Service and Conduct) Rules, 2021, it transpires that the seniority of the person has to be reckoned on the date of notification, which came to be notified in official gazette. The argument of the learned counsel for the petitioner on Rule 26 of 2021 Rules to the effect that the seniority of the person prior to commencement of these rules, shall be determined in terms of Rule, 1997, is thoroughly misconceived. The petitioner admittedly was promoted to the post of Section Officer on 28.01.2022 and prior to that, the persons who have been promoted, in terms of old rule, their seniority is not to be



affected by coming into force of 2021 rules and therefore, the reliance placed by the petitioner on Rule 26 of the Rules, 2021 is thoroughly misconceived. The petitioner was promoted as Section Officer, pursuant to the result of the written test held on 27.11.2021. Therefore his seniority has to be reckoned from the date of his promotion.

10. Accordingly, this Court does not find any merit in the writ petition and the same is dismissed.

**(Ritesh Kumar, J.)**

*Sanjay/-*

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 08.05.2026 |
| Transmission Date | NA         |

