
(2006) 08 PAT CK 0049
In the Patna High Court
Case No : C.W.J.C. No. 7905 of 2005

Amarkant Singh

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 01-08-2006

Acts Referred:

Citation : (2006) 08 PAT CK 0049

Hon'ble Judges : Ramesh Kumar Datta, J

Bench : Single Bench

Judgement

Ramesh Kumar Datta, J.—Heard Mr. Alok Kumar Sinha, learned Counsel for the petitioner and learned J.C. to G.P.8 for the State,

2. The petitioner seeks a direction upon the respondent authorities to consider his case for regular promotion to the post of Assistant Labour Commissioner w.e.f. 29.8.1995 from which date he has been" functioning as incharge Assistant Labour Commissioner after the Notification dated 30.0.1995. The petitioner had been appointed as Superintendent of Labour on 13.6.1978 and Joined on 15.6.1978. Thereafter the clear stand of the petitioner is that vacancies arose in the post of Assistant Labour Commissioner in the year 1995 and after taking into account the seniority and examining the character roll as well as obtaining roster clearance, petitioner was found fulfilling all criteria for regular promotion: then by Notification No. 321 dated 30.6.1995 (Annexure-3) the petitioner was posted as incharge Assistant Labour Commissioner which post he Joined on 29.08.1995 and since then he has been discharging his duty on the said post continuously without any break, The petitioner claims that despite several representations by him his case for promotion regularly on the post of Assistant Labour Commissioner with effect from the date on which he had Joined his post not been considered by the authorities.

3. A counter affidavit, has been filed on behalf of the State respondent Nos. 2 and 3 in which the stand taken is that after bifurcation of the State and allocation of the cadre steas were taken for the promotion of the officers of the department

and seniority lists were also prepared in which petitioner's name appears at serial No. 20. It is further stated that there are at present 15 vacancies existing in the rank of Assistant Labour Commissioner and on a consideration of the seniority list 12 persons have already been granted regular promotion as Assistant Labour Commissioner, The further stand of the respondents is that as soon as the vacancy occurs the petitioners case will also be considered for promotion. The same stand has also been reiterated in the latest instruction received by the learned State Counsel from the Department in which it is stated that with respect to the promotion to the post of Assistant Labour Commissioner the proposal for roster clearance of the vacant post has already been sent to the Personnel and Administrative Reforms Department for its approval and after the same is obtained, if the post is available in the cadre to which the petitioner belongs then his case will be considered for promotion.

4. The petitioner has brought on the record a Notification dated 12.6.2006 by which as many as 14 officers who have been functioning as Incharge Assistant Labour Commissioner have been granted promotion w.e.f, various dates ranging from 23.6.1991 to 26.09.1995 It is stated in supplementary affidavit filed by the petitioner that there are at least four vacancies in existence before 31.12.1996 on the post of the Assistant Labour Commissioner It is further pointed out that as many as four persons have been functioning as incharge deputy Labour Commissioner from before the date when the petitioner was made Incharge Assistant Labour Commissioner prior to 13.12.1995 and therefore . If all the said five persons are given regular promotion of the post Deputy Labour Commissioner then another five substantive posts of Assistant Labour Commissioner will fall vacant in the year 1996 itself. The further submission of learned counsel for the petitioner is that if the process for regular promotion thereafter was initiated for the post of Assistant Labour Commissioner then the petitioner who is at serial No. 20 will definitely get his chance in the 9 substantive vacant posts of Assistant Labour Commissioner.

5. On a consideration of the aforesaid facts and circumstances the respondent authorities are directed to ensure that the case of all the officers of the rank of Assistant Labour Commissioner and Deputy Labour Commissioner for their regular promotion is taken up and if after the said exercise is completed it is found that there are sufficient number of posts then the case of the petitioner may also be considered for promotion on a regular basis on the post of Assistant Labour Commissioner from the date on which the said post, had fallen vacant or 29.8.1996 whichever is later. It is expected that the said exercise shall be completed within a period of four months from today.

6. The writ application is accordingly disposed of with the aforesaid direction.