

**(2009) 11 JH CK 0054**  
**In the Jharkhand High Court**

Jagat Narayan Prasad

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

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**Date of Decision :** 09-11-2009

**Acts Referred:**

**Citation :** (2009) 11 JH CK 0054

**Hon'ble Judges :** Dabbiru Ganeshrao Patnaik, J

**Bench :** Single Bench

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**Judgement**

D.G.R. Patnaik, J.—Heard the learned Counsel for the parties.

2. Petitioner, in this writ application, has prayed for a direction to the Respondents to promote him on Class III post with effect from 12.07.1990 in the same manner, as granted to others including one person, who according to the petitioner, is junior to him in the Gradation list.

3. Learned Counsel for the petitioner contends that the petitioner was initially appointed in the Class IV post as a regular employee, and pursuant to the Government Circulars, issued from time to time, 50 per cent of the existing sanctioned vacancies in the Class III posts are to be filled up from amongst the eligible employees of the Class IV posts. The petitioner had passed the Matriculation examination and thereby possesses the academic qualifications required for his promotion to the Class HI post. Learned Counsel refers in this context to the purported Circulars, issued by the concerned Department of the State Government vide Annexures-3 and 4.

Learned Counsel submits further that the promotions to as many as 5 other Class IV employees were given by the Respondents, when they had chosen to move before this Court by filing writ applications and only because the petitioner did not earlier choose to file any writ application, he has been deprived of the benefits of promotion.

4. Counter affidavit has been filed on behalf of the Respondents.

Learned Counsel for the Respondents would explain that the Circulars enabling the promotions of the employees from Class IV to Class III was, no doubt issued, but with a stipulation that those who had passed the Matriculation Examination prior to the year 1978, would be eligible for being considered. The petitioner, had admittedly passed his examination in the year 1980 and therefore, his candidature could not be considered alongwith the other employees, who had gained the promotion to the Class III post in the year 1990. Learned Counsel adds further that it has been subsequently detected that the promotions granted to the aforesaid co-employees of the petitioner, was itself erroneous in as much as, the Rules of procedure were not adopted by the concerned authorities and the Department is contemplating to take an appropriate decision considering the impropriety of such promotions granted to them. Learned Counsel argues that the petitioner cannot possibly take any benefit from the promotions granted to his co-employees and he has to satisfy his candidature by reference to his own merits and qualifications vis-a-vis, the directions as contained in the Circulars vide Annexures-3 and 4.

5. The issue involved in this writ application, is as to whether the petitioner's claim for his promotion is genuine and is based upon the Circulars issued by the concerned Department of the Respondents from time to time. If, according to the Circulars prescribing the procedure and the Rules for promotion, the petitioner does possess the requisite qualifications, the petitioner does have a right to claim consideration of his case for his promotion.

It appears that the petitioner has referred to the promotions granted to his co-employees in order to impress that the Respondents have discriminated him in the matter of grant of promotion. As it appears from the counter affidavit of the Respondents, the promotion granted to the co-employees of the petitioner, is in itself now being considered to be erroneous by the Respondents.

6. Be that as it may, this writ application is disposed of with a direction to the Respondents to consider the petitioner's claim for his promotion to the Class III posts in accordance with the Circulars issued by the concerned Department of the Respondents including the latest circular in this context and on being satisfied that the petitioner does possess requisite qualifications as prescribed in the various Circulars, take appropriate decision on the petitioner's claim for his promotion to any existing vacancy in the Class III post. This exercise must be initiated and concluded by the Respondents preferably within a period of four months from the date of receipt/production of a copy of this order.

7. Let a copy of this order be given to the learned Counsel for the Respondents.