
(2019) 10 PAT CK 0074

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 1050 Of 2019

Prabhunath Prasad

APPELLANT

Vs

Patna High Court And Ors

RESPONDENT

Date of Decision : 24-10-2019

Acts Referred:

Citation : (2019) 10 PAT CK 0074

Hon'ble Judges : Amreshwar Pratap Sahi, CJ; Ashutosh Kumar, J

Bench : Division Bench

Advocate : Dinu Kumar, Ritika Rani, Piyush Lall

Final Decision : Dismissed

Judgement

1. The petitioner, a Judicial Officer, seeks quashing of the letter dated 15.09.2018, issued by the Registrar General of Patna High Court, intimating him that his representation dated 20.01.2018 for promoting him to the cadre of District Judge (entry level) with seniority from due date, has been rejected by the High Court, as also for a direction to the High Court in the administrative side for considering his case for promotion from the date when the same became due and thereafter accord him the seniority and all other monetary benefits to which he would have been otherwise entitled to.

2. From the perusal of the records of the case, we have noticed that the case of the petitioner was considered for promotion from Civil Judge (senior division) to the post of District Judge (entry level) in accordance with the Bihar Superior Judicial Service Rules, 1951 against the 65 per cent quota for the year 2012-2013, but he was not found fit for promotion, as he had failed in viva-voce test and also because of adverse entry in his ACR.

3. There was an adverse entry in the ACR of the petitioner for the year 2009-2010 and for removal of which adverse remark, a representation was filed by the petitioner, which was rejected by the High Court and such decision was communicated to him in the year 2010 only. The aforesaid decision of the High

Court does not appear to have been challenged.

4. In that event, we see no reason in the request of the petitioner for giving him promotion from due date.

5. Apart from the fact that such claim of the petitioner is absolutely stale, it is also groundless in view of the acceptance of the petitioner of the rejection of his representation for expunging the adverse remark in his ACR of 2009-2010.

6. A departmental proceeding was initiated against the petitioner in the year 2010, in which he was served with a punishment of censure. In another departmental proceeding in the year 2013, the enquiry report suggesting dropping of the charges was accepted by the High Court in its administrative side.

7. As such, the case of the petitioner was again considered for promotion under the 65 per cent quota for the year 2013-2014, but he was not called for interview and this time also, the decision of the Selection and Appointment Committee of the High Court was accepted by the Full Court by its resolution dated 22.04.2015.

8. The petitioner was again considered for promotion in the year 2014-2015, but this time also, the adverse entries in his ACR came in his way for being promoted to the higher post.

9. We have noted that all the aforesaid decisions had the approval of the Standing Committee of the High Court.

10. The petitioner was thereafter again considered for promotion in the year 2015-2016 but he did not qualify in the test. In the year 2016-2017, because of the pendency of some allegations against him, he was not considered for promotion. Lastly, the case of the petitioner was again considered in the year 2017-2018, but the Selection and Appointment Committee of the High Court thought it proper not to call the petitioner for interview as a departmental proceeding was under contemplation. However, the posts for the petitioner and other two Officers, who were not considered fit for promotion, were kept reserved, to be filled up subject to the result of the departmental proceeding in the last selection process of 2016-2017.

11. Presently, the petitioner is facing departmental proceeding for displaying judicial impropriety, dishonesty and lack of integrity.

12. Thus, for the year 2012 to 2018, because of the afore-noted reasons, the petitioner was not promoted to the higher post of District Judge (entry level).

13. The charge of the petitioner that the rejection of the representation of the petitioner is groundless, has no legs to stand in view of the afore-noted facts.

14. We had called for the concerned file from the High Court administration and after having gone through the resolution of the Appointment and Selection Committee as also of the Standing Committee of the High Court on all occasions,

we found that the petitioner was not fit for being promoted to the higher judicial post.

15. The entire service record of the petitioner has also been perused by us and we are of the considered view that the petitioner did not, in the past, conduct himself as an upright judicial officer and, therefore, the denial of promotion to him cannot be faulted with.

16. Under the Rules, namely, the Bihar Superior Judicial Service Rules, 1951, 65 per cent of the posts of District Judge (entry level) is required to be filled up by promotion from amongst the Civil Judges (senior division) on the principles of merit-cum-seniority, subject to the suitability of the parameters as indicated in Appendix-A to the Rules. One of the parameters for promotion is the entry in the ACR for the last 5 years. For performance appraisal, an officer ought not to score more than 8 entries of poor / capable of improvement / fair / average remarks during the last 20 quarters or in that proportion during the last 5 years or else he would stand disqualified for promotion. There are other parameters also, namely, of evaluation of judgements and viva-voce test.

17. It is also required to be noted that the quality of a judge is not assessed only on the basis of his judicial performance in the Court room, but also on how he behaves. A higher judicial officer represents the face of judiciary and it would not be the interest of the preservation of the overall integrity of the judicial system, if unworthy promotions are given only on the basis of number of years that a judicial officer has put in service. Once the principle of merit-cum-seniority has been expounded, merit encompassing various other facets, adverse entries in the ACR, poor appraisal by the Inspecting Judges and complaints against a judicial officer are necessary indices which ought to be taken into account before granting promotion to a judicial officer.

18. On a composite and overall assessment of the entire service records of the petitioner, we do not find any fault with the decision of the High Court administration in not granting promotion to him to the higher judicial post of District Judge (entry level). The petitioner has never been ignored but his candidature has been considered and not found fit for the reasons which have been explained in the afore-noted paragraphs.

19. We find no reason to interfere with the order of the High Court. The petitioner has not made out any case for grant of relief as set out in paragraph 1 of the writ petition.

20. The writ petition lacks merits and is dismissed.