
(2015) 01 PAT CK 0019

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 14460 of 2006

Surendra Prasad

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 23-01-2015

Acts Referred:

Citation : (2015) 01 PAT CK 0019

Hon'ble Judges : Birendra Prasad Verma, J.

Bench : Single Bench

Advocate : Pankaj Kumar Singh and Ritesh Kumar I, for the Appellant; Narendra Kumar, AC to SC, Advocates for the Respondent

Judgement

Birendra Prasad Verma, J.—Heard the parties.

2. The petitioner is aggrieved by the order dated 05.09.2006 (Annexure-14) passed by the respondent No. 2, whereby representation filed on his behalf for granting him promotion on Class-III post and other consequential benefits has been rejected.

3. It is not in dispute that the petitioner was appointed on Class-IV post. However, learned counsel appearing on behalf of the petitioner submits that the petitioner was asked to discharge his duty as a clerk for sometime. Therefore, his case was required to be considered for granting him promotion on Class-III post. It is further pointed out that the persons junior to him, particularly one Harendra Prasad have been granted promotion on Class-III post and the claim of the petitioner has not been allowed.

4. Indisputably, the petitioner had moved earlier before this Court in C.W.J.C. No. 1662 of 2000 for identical reliefs, which was finally disposed of by an order dated 01.08.2006 (Annexure-12) by a Bench of this Court, whereby respondent No. 2 was directed to dispose of the representation of the petitioner by a speaking order. In compliance of the aforesaid order, the respondent No. 2 considered the entire matter and by a reasoned and speaking order dated 05.09.2006

(Annexure-14) has rejected the claim of the petitioner. The respondent No. 2 while passing the impugned order has recorded a finding of fact that the petitioner has never passed limited competitive examination for the purposes of granting him promotion on Class-III post against 50% quota reserved for Class-IV employees.

5. A counter affidavit has been filed on behalf of the respondent No. 1 and 2 resisting the prayers made on behalf of the petitioner. In the aforesaid counter-affidavit it has been asserted that no person, junior to the petitioner belonging to the same class, has been granted promotion on class-III post. It has also been disputed that the petitioner was ever asked to officiate on Class-III post by an order passed by any competent authority. It has next been pleaded that for doing some routine and/or small clerical work at his own sweet will the claim of the petitioner for granting him promotion on Class-III post cannot be allowed.

6. The copy of the aforesaid counter-affidavit filed on behalf of respondent No. 1 and 2 was served upon the learned counsel appearing on behalf of the petitioner as far back as on 15.12.2006. The facts stated in the aforesaid counter-affidavit have not been controverted by the writ petitioner by filing any rejoinder affidavit till date. Furthermore, this Court is of the opinion that the plea taken by the petitioner that the persons junior to him have been granted promotion on Class-III posts cannot be gone into particularly in the background that those persons have not been impleaded as party respondents in the present writ petition. The writ petition suffers from non-joinder of necessary parties.

7. For the reasons recorded above, this Court is not inclined to interfere with the impugned order dated 05.09.2006 (Annexure-14) passed by the respondent No. 2. In the result, the writ petition has to fail and is accordingly, dismissed, but without costs.