

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.3368 of 2024

In
Civil Writ Jurisdiction Case No.6902 of 2022

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Anil Kumar Son of Late Ishwer Sharan Lall Resident of Village- 54A,
Anandpuri, West Boring Canal Road, P.S. Srikrishnapuri, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar, through Mr. Amrit Lal Mina, the Chief Secretary, Government of Bihar, Patna.
2. Mr. Sanjay Kumar Singh, the Principal Secretary cum Commissioner, Commercial Taxes Department, Government of Bihar, Patna.
3. Md. Sohail, Additional Departmental Inquiry Commissioner cum Enquiry Officer, Government of Bihar, Patna.
4. Mr. Vijay Kumar, Under Secretary, Commercial Taxes Department, Government of Bihar, Patna.
5. Mr. Raj Kumar, the Accountant General, Bihar, Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Akhilesh Dutta Verma
For the Opposite Party/s	:	Mr. Vikash Kumar, SC-11 Mr. Akash Chaturvedi, AC to SC-11
For the A.G.	:	Mrs. Nivedita Nirvikar, Sr. Advocate Mrs. Shashi Priya, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
CAV ORDER

9 30-04-2025

1. The record is placed today for passing order.

2. It is on record that in C.W.J.C. No. 4671 of 2022, vide judgment, dated 6th of August, 2024, this Court quashed the departmental proceeding, initiated against the petitioner and further held that the petitioner is entitled to get all pensionary benefits and consequential reliefs. The Respondents were directed to release the same within 45 days from the date of the order.



3. As happens in all cases, the Respondents initially failed and neglected to comply with the direction passed by this Court in the above-mentioned writ petition, which compelled the petitioner to file the instant Contempt Application.

4. The record of the application shows that at the intervention of the Court, the petitioner got pension and arrears salary but the Respondents failed and neglected to consider as to whether the petitioner is entitled to promotion.

5. It is submitted on behalf of the State/Respondents that petitioner's candidature for promotion was considered by the Departmental Promotional Committee (DPC). However, due to pendency of departmental proceeding, the decision of the DPC is kept under sealed cover. Under such circumstances, the State/Respondents are not in a position to take any decision with regard to promotion of the petitioner, which is kept under sealed cover.

6. It is held by the Hon'ble Supreme Court in *Union of India & Ors. v. K. V. Jankiraman & Ors.*, reported in (1991)4SCC109 that consideration of case of an employee for promotion or higher scale of pay cannot be withheld merely on the ground of pendency of any preliminary inquiry/criminal investigation against him. Sealed cover procedure can be



adopted only after the date of issuance of charge memo/charge sheet, that being the date from which disciplinary/criminal proceedings can be taken to have been initiated. Sealed cover procedure can also be adopted where the employee is placed under suspension.

7. It is also held in the above-mentioned report that sealed cover to be opened in case of complete exoneration of the employee from all charges and notional promotion to be given from the date his juniors are promoted. The petitioner is also entitled to get arrears of salary from the date of notional promotion having regard to the circumstances of the case.

8. In the instant case, departmental proceeding, initiated against the petitioner, was quashed by the Writ Court. Therefore, the petitioner was exonerated from departmental charges.

9. It is also submitted by Mr. Akhilesh Dutta Verma, learned Advocate appearing on behalf of the petitioner that there is a Circular issued by the Government of Bihar that an employee is entitled to promotion and higher scale of pay if the departmental proceeding is not concluded within two years from the date of its initiation.

10. In view of *Jankiraman* (supra), the Appointing



Authority of the petitioner is under obligation to open the sealed cover and on the basis of the recommendation of the DPC, the petitioner shall be promoted notionally from the date his juniors were promoted. The petitioner is also entitled to get arrears salary in promotional scale from the date of notional promotion. The opposite parties are specifically directed to comply with the above order within a period of four weeks from the date.

11. The instant case is returnable after four weeks.

(Bibek Chaudhuri, J)

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