

Serial No. of Order	Date of Order	ORDER WITH SIGNATURE	Office notes as to action (if any) taken on order.
37	08.03.2006	<p style="text-align: center;">1</p> <p style="text-align: center;">IN THE HIGH COURT OF JUDICATURE AT PATNA C.W.J.C. No. 14863 of 2004 ***</p> <p>Mahesh Prasad Mishra & Ors.....Petitioner ---Vrs.--- The State of Bihar & Ors.....Respondent ---</p> <p style="text-align: center;">Heard both the parties.</p> <p>By Annexure-3, it appears, a final gradation list has been published. From Annexure-3, it appears that a draft list was prepared on 18th April, 1987. In relation to that draft list, there were certain litigations which reached up to the Hon'ble Supreme Court. In the final list as published by Annexure-3 people, who had been appointed up to 1st September, 1996 have been included. The people, therefore, who had been appointed after 18th April, 1987 but before 1st September, 1996 had no opportunity to give any objection in relation to inclusion of names in the said list fixing their seniority. Petitioners contend they having had joined after 18th April, 1987 but before 1st September, 1996, although their names have been included in the gradation list published by Annexure-3, but while fixing their seniority, they have been shown below the people, who should have been shown below the petitioners. This contention may be right or may not be right. The petitioners, however, contend that they did not get even an opportunity to make their grievances known in</p>	



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		<p style="text-align: center;">2</p> <p>hence, this writ petition.</p> <p>In normal circumstances, a draft gradation list is required to be published, inviting objections within a time stipulated and thereupon to finalize the final gradation list after disposing of the objections in accordance with law.</p> <p>The learned counsel for the State has taken instructions and has filed a further counter affidavit. In that, it has been stated that in relation to nine of the employees included in the said list Bihar Public Service Commission has withdrawn their recommendations and accordingly, the status of those nine persons is now under cloud. It has been stated that one of those nine persons is the petitioner no.1 herein. It has been stated that after the cloud is removed and if necessary objections, if required will be invited and thereupon the matter would be decided. It has also been stated also that a few people from that list have been promoted and accordingly if the final list is treated as draft list their promotions will be affected.</p> <p>I wanted the Government to comply with the basic requirement of law and that is to publish a ^{draft} gradation list, inviting objections thereto and thereupon to prepare final gradation list after disposing of such</p>	

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		<p style="text-align: center;">3</p> <p>objections. It seems that the Government has not at all applied its mind to that aspect. The admitted facts are that the present writ petition is not by one petitioner, whose status is now under cloud but by others too, who did not even get an opportunity to even make their grievances in relation to fixation of their seniority known to the authority. The question is not of interference with the promotions already given. The question is to ascertain whether true seniority was maintained and whether by taking advantage of untrue seniority one has secured a promotion to the deprivation of another.</p> <p>In those circumstances, this writ petition is disposed of by directing the respondents including the State Government to treat Annexure-3 to the writ petition as the draft gradation list; and to invite objections in relation thereto within such time as may be determined by the Government. The Government is directed to finalize the gradation list after disposal of those objections in accordance with law within six months from today and after such finalisation to deal with the promotions already granted in accordance with law.</p> <p style="text-align: right;">This disposes of the writ petition.</p>	

CERTIFIED TO BE TRUE PHOTO COPY
 Done at Kurnool
 24-2-06

For the Registrar (J) 24-2-06
 Panna A.P. District
 Authorised U/S 76 Act 1 of 1872
 21-1-2006

Sd/- Gaurin Ghosh, J.