

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 8697/2016

Dharmendra Karotiya Regar s/o Shri Roshan Lal Regar, aged 31 years, resident of House Number 51, Thakkar Bappa Colony, Surajpol, Udaipur, Rajasthan 313-001

-----Petitioner

Versus

1. Rajasthan Rajya Vidyut Utpadan Nigam Limited through its Chairman and Managing Director, Vidyut Bhawan, Janpath, Jyoti Nagar, Jaipur 302005.
2. Joint Director (Personnel & Administration), Rajasthan Rajya Vidyut Utpadan Nigam Limited, Vidyut Bhawan, Janpath, Jyoti Nagar, Jaipur 302005.
3. The Superintendent Engineer (Generation), Rajasthan Rajya Vidyut Utpadan Nigam Limited, Vidyut Nagar, Banswara (Rajasthan)
4. Om Prakash Meghwal, working as Deputy Director (Personnel), Kalisingh Super Therman Power Project, Rajasthan Rajya Vidyut Utpadan Nigam Limited, Near Undal Village, Tehsil- Jhalrapatan, Dist Jhalawad (Rajasthan)

-----Respondents

For Petitioner(s)	:	Mr. Rajvendra Sarswat Mr. Ramdeo Rajpurohit
For Respondent(s)	:	Mr. Lokesh Mathur Mr. Vipul Dharnia

HON'BLE MR. JUSTICE VIJAY BISHNOI

Order

02/12/2021

The matter comes up for consideration of application (Inward No.01/2019) preferred on behalf of respondent No.4 under Article 226(3) of the Constitution of India for vacation of interim order dates 22.02.2018 passed by this Court.

Mr. Lokesh Mathur, learned counsel appearing for respondent No.4 has submitted that in the second stay petition filed by the petitioner, this Court issued directions to the respondents not to consider respondent No.4 for further promotion till further orders. It is submitted that the said directions were issued by this Court without providing any opportunity of hearing to respondent No.4. It is also further submitted that the said stay order passed by this Court resulted into the situation that the respondent No.4 will not be entitled for any promotion for indefinite period. It is also submitted that there is no ambiguity in issuing promotion order in favour of the petitioner as he was fully eligible for the same. Learned counsel for the respondent No.4 has, therefore, submitted that the interim order dated 22.02.2018 qua the respondent No.4 may kindly be vacated.

Per contra, learned counsel appearing for the petitioner has submitted that notices of the writ petition were served upon the respondent No.4, however, he did not appear before this Court and when the petitioner moved second stay application, this Court after taking into consideration the fact that despite service of notices, none has appeared on behalf of respondent No.4, has passed the interim order dated 22.02.2018.

Learned counsel for the petitioner frankly admitted that the interim order dated 22.02.2018 resulted into the situation that respondent No.4 is not entitled to get any promotion for an uncertain period.

So far as the promotion granted to respondent No.4 is concerned, which is under challenge in the writ petition, learned counsel for the petitioner has submitted that the said action of the respondents of promoting respondent No.4 on the higher post is

absolutely illegal as the respondent No.4 is not possessing requisite qualifications for holding the promotional post.

Heard learned counsel for the parties.

It is not in dispute that notices of the second stay application has not been issued to respondent No.4 at any point of time and blanket order of not promoting respondent No.4 till further orders, cannot be sustained in view of the fact that the same was passed without providing opportunity of hearing to the respondent No.4.

In such circumstances, the application under Article 226(3) of the Constitution of India preferred on behalf of respondent No.4 is allowed. The interim order dated 22.02.2018 directing the respondents not to consider respondent No.4 for further promotion till further orders is hereby vacated.

List this writ petition in the third week of January, 2022 for final disposal.

(VIJAY BISHNOI),J

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