

an incorrect finding, inasmuch as, the petitioner passed the departmental examination way back in the year 1992 itself.

He further submits that the petitioner had earlier moved before this Court and a direction was given to the competent authority to take a decision in the matter; however, now a new ground has been taken by the respondent-State that the seat is not vacant; though in the first DPC itself, one post was reserved and kept vacant for the petitioner on the ground that a departmental proceeding was pending.

He contended that on the one hand; the juniors have been given promotion and on the other hand; the ground for not considering the case of the petitioner for promotion is a new ground which was never taken by the DPC. He further draws attention of this Court towards Section-72 and 73 of Bihar Re-organization Act and submits that after the cadre of allocation; the service of the petitioner has been transferred to the State of Jharkhand and the entire record has been sent to the State of Jharkhand and the decision taken by the first DPC held on 1999 shall still continue and by his allocation to State of Jharkhand the vacancy also transferred to this State.

In this view of the matter, the impugned order passed by the Respondent-State of Jharkhand in not giving him promotion on the ground that there is no vacancy is *non-est* in the eye of law and the same is against their document.

3. Mr. Manoj Kumar, learned counsel for the respondent-State tries to defend the impugned order and submits that State of Bihar is not a party respondent and second DPC was also held in the State of Bihar. Although he does not deny the factual aspect that the seat was kept vacant but the fact remains; since there is no vacancy in the State of Jharkhand, the case of the petitioner has not been considered.

4. Put up this case on 28.09.2021 for further hearing under the heading "For Final Disposal".

(Deepak Roshan, J.)

Fahim/-