

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15088 of 2015

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1. Arbind Sharma son of Bhavsagar Singh Resident of Village - Mahuaar, P.O. - Munjhar, P.S. - Haspura, District - Aurangabad, at present residing at Anicut Road, P.O. and P.S. - Dehri-on-Sone, District - Rohtas at Sasaram.

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Govt. of Bihar, Patna.
3. The Superintending Engineer (Mechanical), National Highway, Mechanical Circle, Patna.
4. The Executive Engineer (Mechanical), National Highway, Dehri-on-Sone Division, Dehri-on-Sone.
5. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
6. The Special Secretary, Finance Department, Govt. of Bihar, Patna.
7. The Commissioner, Tirhut Range, Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anjani Kumar Jha

For the Respondent/s : Mr. Md. Raisul Haque- Sc4

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 05-11-2015

Petitioner is working as a Compilation Clerk. Benefit of 1st time-bound promotion came to be given to him by the Superintending Engineer in terms of Annexure-1, dated 22.8.1996. He withdrew the advantage thereof. In a review meeting held by the screening committee, it was discovered that petitioner had not passed the accounts examination, which is mandatory for begetting any kind of promotion, which also includes time-bound promotion under the stagnation scheme. There is no dispute or arguments on this aspect of the matter as law is well settled.

Respondents, therefore, decided to cancel the benefit given to the petitioner w.e.f. 15.3.1993 and even effect recovery.

Coming to the recovery part of the order, keeping in view the latest decision rendered by the Apex Court in the case of ***State of Punjab and others vs. Rafiq Masih (White Washer) and others, (2015) 4 Supreme Court Cases 334***, where especially the Hon`ble Apex Court has held that recovery from Class III and IV employees ought not to be made, the order of recovery (Annexure-3) as well as Annexure -10 stands quashed.

However, so far as grant of benefit under various scheme of stagnation is concerned, that can only accrue in favour of the petitioner from the date he has passed the departmental examination, which is said to be 16.01.2010.

Writ application is allowed to the above extent, with a direction to the respondents that they will re-work the entitlement of the petitioner from the date he has passed the departmental examination.

(Ajay Kumar Tripathi, J)

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