

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1576 of 2014

=====

1. Jitendra Kumar Singh S/O Late Rameshwar Prasad Singh, Junior Engineer, Rural Works Division, Bhagalpur Section - Goradih, At Bhagalpur, P.S. And District - Bhagalpur

.... Petitioner/s

Versus

1. The State Of Bihar through Chief Secretary, Govt. Of Bihar, Patna

2. The Principal Secretary, Road Construction Department, Government Of Bihar, Patna

3. The Special Secretary, Road Construction Department, Govt. Of Bihar, Patna

4. The Deputy Secretary, Road Construction Department, Govt. Of Bihar, Patna

5. Nawal Kishore Pandit, Assistant Engineer, C/O Deputy Secretary, Road Construction Department, Govt. Of Bihar, Patna

6. Binod Bihari, Assistant Engineer, C/O Deputy Secretary, Road Construction Department, Govt. Of Bihar, Patna

7. Umesh Sharma Assistant Engineer, C/O Deputy Secretary, Road Construction Department, Govt. Of Bihar, Patna

8. The Bihar Public Service Commission through its Secretary, Bailey Road, Patna

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr Rajendra Prasad Singh, Sr. Advocate
Mr. Mukesh Kumar Singh

For the State : Mr. Ravi Bhardwaj, AC to GA 5

For the BPSC : Mr Sanjay Pandey

=====

CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 04-12-2015

Petitioner is looking for promotion on the post of Assistant Engineer, especially from the date of so- called juniors have been granted promotion, which is said to be 1.4.2010.

From the exchange of pleadings and affidavits, which have been filed on behalf of the State and the BPSC, it seems that when the DPC met earlier to take up the case of the petitioner for promotion looking on the pendency of a proceeding, which culminated into a punishment order, his case was kept under a sealed

cover. The matter remained so for a long time and thereafter certain other development took place, therefore, no final decision has been taken on the issue.

One of the prayers of the petitioner in the writ application is that the department is not willing to act upon the recommendation for promotion after opening the sealed cover on the ground that BPSC has to revalidate the decision of the DPC.

The stand of the BPSC is that such revalidation can only be done within a period of one year and not beyond the same. In the case of the petitioner, more than 10 years have gone past, therefore, there cannot be a case for revalidation. From the stand of the respondent State and the BPSC, the eligibility and the right of the petitioner for being considered for grant for such promotion does not seem to be an issue as such. Only because of such procedural reasons and certain litigations, matter remained pending for so many years.

The Court is further also not impressed by the stand taken by the State that there is an embargo created because of the General Administration Department circular no.11218 dated 12.8.2014. Such circular was issued in the background that there was an order of stay passed by a learned Single Judge in matter of grant of benefit of reservation even in promotion to SC/ ST candidate. The learned Single Judge has quashed such reservation and that decision

has been upheld by a Division Bench. Law therefore is that no benefit of reservation in promotion is required to be extended to such candidates.

The Court, therefore, directs the respondents to ensure that a DPC is held preferably within a period of three months and a decision taken on the claim of the promotion of the petitioner in accordance with law.

Writ is disposed of with the above direction.

(Ajay Kumar Tripathi, J)

sk

U			
---	--	--	--