

IN THE HIGH COURT OF JUDICATURE AT PATNA

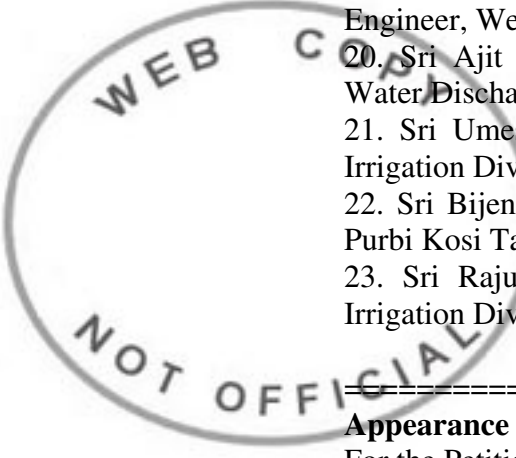
Civil Writ Jurisdiction Case No.10934 of 2015

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1. Chandan Kumar Son of Sri Sita Ram Rajak resident of village - Dharahare, Police Station - Dharahara, District - Munger
 2. Rana Ranjit Singh Son of Sri Binod Kumar resident of Mohalla - Asha Nagar, P.S. Sohsarai, District - Nalanda
 3. Prem Chandra Ram Son of Sri Ramchandra Ram resident of village - Bikrampur, P.S. Samastipur, District - Samastipur
 4. Sikandra Kumar Son of Sri Suresh Ram resident of village - Hanaiya, P.S. Kutumba, District - Aurangabad
 5. Shailendra Kumar Son of Sri Ramashray Kumar resident of village - Bishnupur, P.S. Town - Begusarai, District - Begusarai
 6. Kishori Ram Son of Sri Tribhuwan Ram resident of village - Pakri, P.S. Muzaffarpur, District - Muzaffarpur
 7. Suresh Kumar Son of Sri Raghupat Ram resident of village - Chechari, P.S. Obra, District - Aurangabad

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Water Resources Department, Bihar, Patna.
3. The Joint Secretary, Management Water Resources Department, Bihar, Patna
4. The Under Secretary, Management Water Resources Department, Bihar, Patna
5. The Officer on Special Duty Water Resources Department, Bihar, Patna
6. Sri Laxman Kumar, I.D. No. 5101/ Patna, Incharge Executive Engineer, SCADA Division, Ara, District - Bhojpur
7. Sri Jitendra Kumar Ram I.D. No. 5102/ Aurangabad, the I/C Executive Engineer, Investigation and Project Division, Gandak Cada, Siwan, District Siwan
8. Sri Vijay Kumar Pal, ID No. 5104/ Nalanda, the Incharge Executive Engineer, Water Discharge and Investigation Division, Bettiah, District West Champaran
9. Sri Dipendra Kumar Rajak, I.D. No. 5105/ Bhagalpur, the Incharge Executive Engineer, Water Discharge Division, Chapra, District - Saran
10. Sri Anil Kumar I.D. No. 5106/ Bhagalpur, the Incharge Executive Engineer, West Kosi Nahar Division, Darbhanga, District Darbhanga
11. Sri Siya Ram Paswan I.D. 5107/ Lakhisarai, the Incharge Executive Engineer, Uttar Koel Nahar Division, Japala, District Daltanganj under the Control, Japala, District - Daltanganj under the Control of Chief Engineer Zone, Aurangabad, District - Aurangabad
12. Sri Ajay Kumar I.D. No. 5109/ Saharsa the Incharge Executive Engineer, Rupankan Division No, 1, Darbhanga, District - Darbhanga
13. Sri Manish Kumar Bharti I.D. No. 5113/ Darbhanga, the Incharge Executive Engineer, Sone Uchcha Astariya Nahar Division, Sasaram, District Rohtas
14. Sri Ranjit Kumar Ranjan, I.D. 5115 Munger, the Incharge Executive Engineer, Batane Shirsh, Works Division, Hariharganj Shivir - Amba, District - Aurangabad
15. Sri Subodh Choudhary I.D. No. 5221/ Nalanda, the Incharge Executive Engineer, Sone Nahar Adhunikaran Pramandal, Ramgarh Shivir - Noam
16. Sri Adit Prakash I.D. No. 5115/ Patna, the Incharge Executive Engineer, Investigation and Project Division, Gandak Cada, Bettiah, District - West Champaran
17. Sri Dharambir Kumar, I.D. No. 5118/ Patna, the Incharge Executive Engineer, Kamala Nahar Pramandal Jai Nagar, District - Madhubani

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18. Sri Deepak Kumar I.D. No. 5119/ Nalanda, the Incharge Executive Engineer, Uttar Koel Nahar Pramandal, Nabinagar, District Aurangabad
 19. Sri Surendra Kumar Harsh I.D. No. 5120/ Vaishali, the Incharge Executive Engineer, West Kosi Nahar Pramandal, Jhanjharpur, District - Madhubani
 20. Sri Ajit Kumar, I.D. No. 5190/ Munger, the Incharge Executive Engineer, Water Discharge and Investigation Division, Raghapur, District Vaishali
 21. Sri Umesh Kumar I.D. No. 5121/ Patna, the Incharge Executive Engineer, Irrigation Division, Bijikhorwa, District Banka
 22. Sri Bijendra Kumar I.D. No. 5122/ Banka, the Incharge Executive Engineer, Purbi Kosi Tatbandh Division No. 2, Birpur, District Supaul
 23. Sri Raju Kumar I.D. No. 5191/ Patna, the Incharge Executive Engineer, Irrigation Division, Bathanaha, District - Purnea

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Indu Bhushan

For the Respondent/s : Mr. KUMAR MANISH- SC21

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 18-03-2016

Petitioners filed the writ application when by virtue of a notification, contained in Annexure-4 dated 30.6.2015, many an Assistant Engineers came to be posted and asked to officiate as Executive Engineer at the place of their posting. Since the names of these petitioners did not figure, they have approached the High Court for a direction to be treated alike, especially when many juniors have been given the privilege of officiating as Executive Engineer.

2. State was directed to explain their decision. They take two pleas – one that in the interest of administration and work stopgap arrangements have been evolved. All these persons, so notified, are working in officiating capacity and have not been substantively promoted for the reasons that there is a ban issued by the General Administration Department to grant substantive promotion to

employees by virtue of notification dated 12.8.2014.

3. The decision as such, therefore, cannot be said to be unreasonable or arbitrary because administration cannot come to a standstill and work cannot be allowed to suffer. However, in para 7 there is specific reference to the reasons as to why these petitioners could not be posted or notified to officiate as Executive Engineer. It is better to quote the said paragraph since it crystallizes the reasons in one place with regard to various petitioners.

“7. That it is stated further that the petitioners were appointed against the post of the Assistant Engineer (Civil) in the Water Resources Department, Bihar vide notification no. 2362 dated 06.08.2008 and are working since then. But they were not found eligible for promotion while preparing the aforesaid list for positing as Executive Engineer-in-charge. It would be evident from the Broad sheet dated 30.06.2015 that the service of the petitioner No.1, 2, 5 and 6 were not confirmed on the date of the aforesaid consideration. The annual confidential Report of the petitioner no.3, 4, 7 for certain periods for promotion were not available. As such they could not be considered for posting as Executive Engineer-in-charge”.

4. When the matter was being considered these reasons did subsist. If subsequently down the line, confirmation has been made of service of three of the petitioners, it is subsequent event and it is hoped and expected that in the next round of decision-making, the authorities will surely keep in mind that three of these petitioners who are petitioners No. 1, 2 and 5, will also be considered for giving similar kind of benefit.

5. With regard to the rest of the petitioners, their ACR is not complete. The department/controlling authority of the petitioners will make endeavour to see that the ACRs are completed. No sooner the same is done, even their cases will be considered suitably.

6. Before parting, the Court would also like to observe that the General Administration Department's circular putting a ban on the promotion dated 12.8.2014 has been quashed by this Court and therefore, it will be in the interest of things that the respondent authorities instead of resorting to an ad hoc arrangement go for grant of substantive promotion to all those eligible candidates who fulfils the criteria.

7. Writ application is disposed of with observation as above.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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