

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10771 of 2014

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Kailash Ram S/o Late Dewak Ram R/o Mohalla Saidpur Kothi, Kurji, P.O- Sadakat Ashram, P.S- Digha, District- Patna.

.... Petitioner

Versus

1. The State of Bihar through its Chief Secretary Govt. of Bihar, Old Secretariat, Building, Patna.
2. The Principal Secretary to Govt. PHED., Bihar Patna Visheshwaraiya Bhawan, Bailey Road, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Lalan Kumar Singh, Advocate

For the Respondents : Mr. Pushkar Narain Shahi, AAG-6

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 15-12-2016

Writ has been filed by the petitioner for two kinds of relief, one is to shift the date of promotion on the post of Chief Engineer either with effect from 09.05.2004 or 18.10.2007, the date junior to the petitioner were promoted. So far as this relief is concerned, State in the counter affidavit have stated that benefit has already been given to the petitioner, therefore, that issue must rest.

Now the demand is that he should be promoted on a substantive basis on the post of Engineer-in-Chief-cum-Special Secretary with effect from 01.01.2010. One of the reasons being that the petitioner was permitted to officiate as such and he superannuated thereafter on 28.02.2011.

So far as this prayer is concerned, the State has taken a



stand that the petitioner had a right for consideration and not of appointment. Since no substantive decision for grant of promotion on the post of Engineer-in-Chief was ever taken, which could not be taken in isolation, and due to vacancy available at the relevant time he was allowed to officiate for about six days. Mere officiation in an office does not create a right for substantive appointment because the rules governing substantive appointments have to be followed and exercise has to be done by the D.P.C. in this regard. But before any exercise seems could be gone through superannuation of the petitioner intervened.

There may not be an occasion to consider passing any direction for grant of benefit of such promotion in favour of the petitioner in the above given facts.

In absence of any pleadings to show as to how his right of substantive promotion on the post of Engineer-in-Chief is created or has been violated, no direction is required to be given in favour of the petitioner.

Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

Pawan/-

AFR/NAFR	NAFR
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