

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.1510 of 2015  
IN  
Civil Writ Jurisdiction Case No. 14883 of 2006**

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1. Krishna Kumar Pandey S/o late Bikramaditya Pandey resident of Moh- New Jakkanpur ,P.s Jakkanpur,Distt- Patna.

.... .... Appellant/s

Versus

1. The State of Bihar
2. The Special Secretary, Water Resources Department, Irrigation Building Patna.
3. The Finance Commissioner, Old Secretariat, Patna.
4. The Deputy Director, Irrigation Research Division No. 1, (Khagaul) Patna.
5. The Chief Engineer, Water Resources Department, Bhagalpur.
6. The Superintendent Engineer, Irrigation Circle Kharagpur, Distt- Munger.
7. The Executive Engineer, Irrigation Division No. 1, Laxmipur District Jamui.
8. The Accountant General, Birchand Patal Path Patna.

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : Mr. Chandra Bhushan Verma  
For the State : Mr. Y.P.Sinha, AAG 7  
Mr Shankar Kumar, AC to AAG 7  
For the Accountant General : Mr Rabindra Kr. Priyadarshi

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI  
and  
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)**

**Date: 17-01-2017**

I.A. No.6775 of 2015 is allowed. Delay of four days is condoned for the reasons indicated. The matter is also heard on the merits.

The appeal is directed against the order dated 24.3.2015 passed in CWJC No.14883 of 2006. By virtue of the impugned decision of the learned Single Judge the prayer of the appellant for fixation of his pay in the pay scale of Rs.6500- 10500 has been rejected, which is the pay scale of an Assistant Engineer in the State



of Bihar.

The short narrative emerging from the pleadings is that the appellant was engaged or appointed as an Overseer. He worked in that capacity and over a period of time, was even saddled with the responsibility of Junior Engineer and then Assistant Engineer. He retired on 30.11.2000. First, he approached the High Court for payment of pension and now he has approached for revision of pension, fixation of pay scale and payment of salary according to the pay scale, which is applicable to an Assistant Engineer.

The learned Single Judge has taken note of the service of the appellant and his career. He has never been substantially appointed on the post of a Junior Engineer or Assistant Engineer. These are responsibilities, which were thrust upon him looking at the exigency of service. For substantive promotion on the post there are procedure laid down and especially with regard to appointment on the post of Junior Engineer or Assistant Engineer, recommendation of Bihar Public Service Commission is a must.

Nothing is emerging from the pleadings or evidence that the authorities at any point of time followed the procedure for substantive promotion of the appellant on the post in question much less on the post of Assistant Engineer.

The learned Single Judge has also taken note of certain decisions, which have been passed earlier, which fortifies the



decision that Overseers, who were appointed as Junior Engineers, had been wrongly done so and a direction was issued upon the Chief Secretary to put them in their place because such accommodation or working arrangement was contrary to the policy. In addition to that, the Court has also held earlier as far back as 1999 that such promotions can only accrue through the Bihar Public Service Commission and not otherwise.

The facts and the law having been settled the expectation of the appellant for payment of a particular pay scale of Assistant Engineer, therefore, is basically a last-ditch effort on his part to acquire the benefit of a post on which he was never substantially promoted.

In view of the same, the learned Single Judge has committed no error. The impugned order does not suffer from any illegality. The appeal, therefore, is dismissed.

**(Ajay Kumar Tripathi, J)**

**(Nilu Agrawal, J)**

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