

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11786 of 2008

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Rajendra Prasad Singh, son of Late Ramesh Prasad Singh, resident of House No. 14
A, Kasturba Path, North Shri Krishna Puri, P.S. Shri Krishna Puri, District Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. Secretary and Commissioner, Water Resources (Irrigation) Department,
Government of Bihar, Patna
3. Joint Secretary, Water Resources (Irrigation) Department, Government of
Bihar, Patna
4. Engineer in Chief (North) Water Resources Department, Government of Bihar,
Patna
5. Accountant General (A & E) Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Umeshwar Prasad Singh
Mr. Ram Shankar Prasad

For the Respondent/s : AC to GP – 17

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 06-03-2017

1. Heard Sri Umeshwar Prasad Singh, learned counsel for
the petitioner and learned AC to GP No. 17.

2. The petitioner, who superannuated long back with effect
from 28.2.1998 holding the post of Chief Engineer but functioning as
Engineer- in- Chief has filed the present writ petition after about more
than ten years from the date of his superannuation i.e. on 8.8.2008
with a prayer to direct the respondents to complete the formalities of
his promotion on the post of Engineer- in- Chief and also to pay
salary of Engineer- in- Chief for the period from 1.4.1997 to
28.2.1998 and also prayer has been made to revise pension and other



retiral benefits.

3. Learned counsel for the petitioner has drawn my attention to Annexure '1' to the present writ petition i.e. an order dated 27.3.1997 whereby the petitioner along with other three persons, who were occupying the post of Chief Engineer, was given additional charge of Engineer -in -Chief (North) in his own pay scale. Almost within a month vide memo no. 639 dated 28th April 1997 the petitioner and one another Chief Engineer were given independent charge of Engineer- in- Chief in his own pay scale of Chief Engineer. While functioning in the said capacity the petitioner superannuated with effect from 28.2.1998. A plea has been taken that petitioner repeatedly raised the issue regarding granting him regular promotion as Engineer- in -Chief and also to pay the salary of the Engineer- in – Chief. However, finally vide Annexure '6' to the writ petition issued by the office of the Accountant General, Bihar, the Administrative Department was asked to furnish information as to whether any amended order regarding payment of salary of Engineer-in -Chief was issued by the Department or not and thereafter, the petitioner filed the present writ petition. Learned counsel for the petitioner has placed reliance on an un -reported order passed by this court dated 17.1.2008 in CWJC No. 9789 of 2000, which was disposed of along with CWJC No. 13271 of 2000. It was submitted



by learned counsel for the petitioner that in the said case though the petitioners were functioning as In-Charge Head Master this Court considered that they were entitled to get the promotional benefit of Head Master. According to learned counsel for the petitioner the case of petitioner stands on better footing than the case of the petitioner of CWJC No. 9789 of 2000.

4. In this case counter affidavit and supplementary counter affidavit were filed. Learned State Counsel by way of referring to the facts disclosed in the counter affidavit and supplementary counter affidavit submits that for promotion to the post of Engineer- in -Chief 'Kalawadhi' was required to be completed. Since the petitioner had not completed the required 'Kalawadhi', there was no question for granting him promotion as Engineer- in- Chief. So far pay scale of Engineer -in -Chief is concerned, it has been indicated that for discharging the duty as Engineer- in -Chief in the same pay scale of Chief Engineer additional pay was decided to be paid in view of necessary instructions that was maximum amount of Rs. 250/- per month.

5. Besides hearing learned counsel for the parties I have also perused the materials available on record. At the very outset the Court is of the opinion that the writ petition is fit to be rejected on the ground that petitioner, even if there was any right the petitioner had



slumbered over his right for several years. Fact remains that petitioner superannuated with effect from 28.2.1998 whereas, the present writ petition was filed in the month of August, 2008. Moreover, while the petitioner was asked to function as Engineer-in -Chief by specific stipulation it was indicated that he will function in the same pay scale which he was drawing as Chief Engineer. The said communication was issued in the year 1997. For one year without raising any objection the petitioner continued to function independently as Engineer –in- Chief in the same pay scale i.e. in the pay scale of Chief Engineer but no objection was raised and he superannuated on 28.2.1998. Moreover, for the purposes of promotion from the post of Chief Engineer to Engineer- in- Chief, the Court is in agreement with the submission of learned State Counsel that in absence of completion of ‘Kalawadhi’ he was not entitled to be considered for promotion as Engineer- in -Chief. Moreover, supplementary counter affidavit indicates that while functioning as Engineer -in -Chief in the pay scale of Chief Engineer only additional pay of Rs. 250/- was required to be given. So far Annexure ‘8’ i.e. the order dated 17.1.2008 passed in CWJC No. 9789 of 2000 and another connected case is concerned , on perusal of the said order it is evident that in the said case it was noticed that they were found fit for promotion as Head Master and recommendation was also made



and thereafter they were functioning as In -Charge Head Master and as such, the case of the petitioner may not be equated with the case as contained in Annexure ‘8’ to the writ petition. Primarily on the ground that the petitioner has slumbered over his right for more than ten years, there is no reason to pass any positive order.

6.The writ petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	10-03-2017
Transmission Date	N/A

