

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19789 of 2015

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Digamber Jha, Son of late Chaturbhuj Jha, resident of Village- Birta Tola, Dhaka,
P.S. Dhaka, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Road Construction Department, Bihar, Patna.
3. The Engineer-in-Chief, Road Construction Department, Bihar, Patna.
4. The Deputy Secretary, Road Construction Department, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Y.V. Giri, Sr. Advocate with
Mr. Prabhu Nath Pathak, Adv.

For the Respondent/s : Mr. Madanjeet Kumar, GP-20
Mr. Rajiv Ranjan, AC to GP-20

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 19-07-2017

Heard Mr. Y.V. Giri, learned senior counsel appearing for the petitioner along with Mr. Prabhu Nath Pathak, the advocate on record and Mr. Madanjeet Kumar, learned Government Pleader No.20 for the State.

In the nature of the order which this Court proposes to pass it would not be required to delve deep into the merit of the case. The petitioner by this writ petition has questioned the decision of the Road Construction Department bearing Memo No.1156(E) dated 13.2.2015 whereby and whereunder the grant of progression to the Engineers under the Assured Career Progression Scheme, 2003 and the Modified Career Progression Scheme, 2010 (hereinafter referred to as 'the MACP Scheme') has been modified



to their detriment.

There is no dispute that the petitioner is entitled to a progression under the 'MACP' Scheme rather the dispute is as to the grade pay admissible to them.

While it is the contention of Mr. Giri, learned senior counsel appearing for the petitioner that the resolutions relied upon in the office order dated 13.2.2015 for modifying the grant of 'MACP' order dated 11.9.2013 is not strictly applicable to the petitioner who was appointed as the junior engineer and has continued on the post until the grant of financial progression under the two career progression schemes referred to above till his regular promotion on 1.10.2011 as Assistant Engineer but in my opinion, before this Court would enter into the merits of the case and express any opinion it would be appropriate to allow the petitioner to raise his claim before the Engineer-in-Chief –cum- Additional Commissioner –cum- Special Secretary, Department of Road Construction, Government of Bihar, Patna for his consideration and disposal and any such representation being filed by the petitioner should be disposed of by the Engineer-in-Chief –cum- Additional Commissioner –cum- Special Secretary, Department of Road Construction, Bihar, Patna in accordance with law and after opportunity of hearing to the petitioner by a speaking order within a



maximum period of six weeks from the date of filing of such representation.

The present order of remand has been necessitated in view of the fact that although the order impugned at Annexure-6 dated 13.2.2015 seeks to modify the grant of progression order dated 11.9.2013 present at Annexure-4 but there is nothing on record to demonstrate as to whether it has been applied in the case of the petitioner and/or whether the case of the petitioner would be covered under the decision for until such time that an order modifying the grant of progression to the petitioner is passed by the appropriate authority in the light of the decision present at Annexure-6, the discussion is futile.

In the circumstances the writ petition is disposed of with the direction aforementioned.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01-08-2017
Transmission Date	NA

