

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9244 of 2008

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Sachida Nand Singh, son of late Lalji Singh, resident of Village Ageya, P.O. Ageya, Via Mustafabad, District Siwan

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary to the Government, Water Resources Department, Government of Bihar, Sichai Bhawan, Patna.
3. The Deputy Secretary, Water Resources Department, Government of Bihar, Sichai Bhawan, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Singh
For the State : Mr. Sunil kumar Mandal, SC 3,
Mr. Bipin Kumar,
Smt. Neelam Kumari, AC to SC.3

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 17-01-2018

Heard learned counsel for the petitioner and learned counsel for the State.

In the present case, petitioner has initially claimed the promotion to the post of Assistant Engineer as he was illegally deprived on the ground that as he was awarded punishment of with-holding promotion for three years from due date of promotion i.e. 1.4.1992 and he was allowed notional promotion from 1.4.1995 though his junior was promoted from 1.4.1992. He was not given promotion on account of punishment but during pendency of this writ petition the petitioner has been granted the benefit from 1.4.1995 notionally whereas his junior



was granted actual promotion with effect from 1.4.1992.

In the supplementary counter affidavit the State in paragraph 10 has stated that paragraph 10 of the counter affidavit may be deleted and it may be ignored.

In such view of the matter, there was no punishment against the petitioner but wrongly he has been deprived from promotion and which has been stated in paragraph no.5 of the counter affidavit which is as follows:

“5. That it is most humbly stated that the answering respondent hereby tenders his unqualified and unconditional apology, for the act of inadvertent human error, this has happened by the then Deputy Secretary (Management) Sri Ashok Kumar and the petitioner was wrongly attached with the punishment of withholding of promotion for 3 years which was actually awarded to a different Sachidanand Singh other than this petitioner. There is noting intentional behind this and because of inadvertent human error, this has happened.”

When there was no laches or any infirmity in the matter of promotion to the posit of Assistant Engineer of the petitioner deprivation and later on notional promotion is not proper exercise of power as it amounts to inflicting punishment to a person who has not committed any wrong. The petitioner was



deprived of the promotion under the wrong notion as punishment was awarded to different Sachidanand Singh and become the basis of deprivation of his promotion.

So in such view of the matter, the petitioner is entitled to the actual promotion from the date of his junior i.e. 1.4.1992.

The State authority is directed to grant difference of arrear of salary to the petitioner from 1.4.1992 treating him to be promoted on the post of Assistant Engineer from the aforesaid date and he will also be entitled to the consequential benefit treating him to be promoted on that date. All process should be completed within a period of five months from the date of receipt/production of a copy of this order.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
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Transmission Date	NA

