

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7360 of 2000

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1. Ram Briksh Singh, son of late Deolal Singh, resident of Village Mahawar Police Sttion Daudnagar, District Aurangabad
 2. Subedar Prasad, son of late Ratan Chaudhary, resident of Village Mahawar, P.S. Daudnagar, District Aurangabad
 3. Shoaib Ahmad, son of late Qumral Ahmad, resident of Village Katha, P.O. Nahu, District Patna, at present residing at Muhalla Imamganj, Opp. M.S.K.B. School, Muzaffarpur (South) Post Office Chandwara, District Muzaffarpur
 4. Narendra Prasad Tiwary, son of Sri Ram Prasad Tiwary, resident of Village Chandralaya, P.O. Balwa Kuari, P.S. Hajipur Sadar, District Vaishali, at present posted as Sub Divisional Officer, Quality Control Sub Division, Mandal, Daltanganj
 5. Bishwanath Mishra, son of late Sri Niwas Mishra, resident of Village Mahawar, P.S. Daudnagar, District Aurangabad
 6. Maheshwar Chaudhary, son of Sri Pradeep Chaudhary, resident of Village Dharampur, P.O. Bhitha Dharampur, P.S.Pupari, District Muaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary-cum-Commissioner, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna
3. The Special Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna
4. The Joint Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
5. The Deputy Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
6. The Under Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna
7. Finance Department through the Finance Secretary, Finance Department, Government of Bihar, Old Secretariat, Patna.
8. The Deputy Secretary, Finance Department, Government of Bihar, Old Secretariat, Patna
9. The Accountant General, Bihar, Birchand Patel Marg, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vishwanath Prasad,
For the Respondent/s : Mr. D.K.Gupta
Mr. B.K.Prasad

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 08-01-2018

Heard learned counsel for the petitioners and learned



counsel for the State.

This writ petition has been filed for a direction to the respondents not to stop the annual increments and its consequential benefits along with interest from the due date of promotion till three years from the date of notification of regular promotion i.e. 20.4.1993 on the post of Assistant Engineer.

Petitioners were initially appointed in between 1960 to 1962 as Junior Engineer in Water Resources Department. They were given first time bond promotion to the post of Assistant Engineer in the pay-scale of Rs. 3000/- to Rs.4,000/- vide notification no.2003 dated 18.7.1992. The petitioners were granted substantive promotion vide memo no.1126 dated 20.4.1990 with retrospective effect from 27.11.1996.

In the present case only grievance has been raised with regard to entitlement of annual increments. As per petitioners in terms of PWD Code departmental examination has to be cleared within three years from the date of actual notification not prior. In the event of retrospective promotion it is impossible to pass the examination before the date of notification and as such three years should be counted from the date of notification. This issue has been elaborately gone into by this Court in C.W.J.C No.9794 of 1999 (Mangaldeo Singh v. The State of Bihar and others) and



analogous cases and initially the Court after considering the vicinity of the issue involved has given the following direction:

“In the circumstances this Court arrives at the conclusion that:

(a) The petitioners would be entitled to annual increments for a period of three years from the date of grant of promotion as Assistant Engineer.

(b) They would be required to clear the departmental examination within three years from the date of the notification granting them retrospective promotion.

(c) In event of clearing the departmental examination within three years from the date of the notification, they would be entitled to annually increments in continuity from the date of such retrospective promotion.

(d) Failure to clear the departmental examination after three years would lead to stoppage of the annual increments till such time that they do not clear the departmental examination.

(e) The petitioners would not be entitled to annual increments for this interregnum period after three years till the date of annual clearance of the departmental examination unless the Government otherwise directs.

(f) Those who have been exempted by the Government from clearing the departmental examination, would be entitled to continuity of annual increments from the date of retrospective



promotion.

(g) Those who do not clear the departmental examination after three years will not be entitled to any increments after three years”.

Learned counsel for the petitioners submits that petitioner no.3 and 6 have passed the departmental examination within three years.

In such event, those have passed the examination would continue with the benefit of annual increment and with regard to others, after three years the annual increment would be treated to have been stopped, will get the the benefit of annual increment from the date he passed the examination.

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

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.1.2018
Transmission Date	NA

