

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14924 of 2010

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Om Prakash Singh S/o Late R.S.Singh R/o Vill/Moh-A-30, Abhiyanta
Nagar, P.O. Ashiyana Nagar, P.S.Rajiv Nagar, Distt-Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Water Resources (Irrigation) Department Government of Bihar, Patna
3. The Commissioner, Water Resources (Irrigation) Department Government of Bihar, Patna
4. Superintending Engineer, Samagra Yojna and Rupankan Anchal-2, Water Resources Department Patna

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Ashok Kumar Choudhary

For the Respondent/s : AAG-1

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

10 19-06-2018 The petitioner by way of the present writ petition has sought promotion on the post of Superintending Engineer with effect from the date his juniors have been considered and granted promotion.

Shorn of unnecessary details, the matter has boiled down to the effect that the respondents in their earlier counter affidavit had stated that they would be considering the case of the petitioner for promotion and then, upon the directions of this Court, the Departmental Promotion Committee was constituted and in its meeting dated 12.2.2013, the Departmental Promotion Committee, after examination the service records of the petitioner came to the conclusion that the petitioner is not fit to be promoted on



account of adverse entry in the year 1994-95.

The learned counsel for the petitioner submits that the ground for denying promotion to the petitioner i.e. adverse entry having been entered in the A.C.R. of the year 1994-95 is not tenable in the eyes of law inasmuch as the said adverse entry was never communicated to the petitioner herein.

The learned counsel for the petitioner has relied upon a judgment reported in **(2013) 9 SCC 566 (Sukhdev Singh vs. Union of India & ors.)** and one reported in **(2008) 8 SCC 725 (Dev Dutt vs Union of India & Ors.)** to contend that in case the adverse entry in the A.C.R. is not communicated to the incumbent, the same cannot be used against the petitioner for denying promotion to the incumbent. The aforesaid position in law as also the facts of the present case are not controverted by the learned counsel for the respondents.

Having regard to the facts and circumstances of the case, the writ petition is allowed and the decision of the Departmental Promotion Committee dated 12.2.2013, whereby and whereunder the claim of promotion of the petitioner was rejected on the sole ground that his A.C.R. for the year 1994-95 contained adverse remarks, is quashed. The respondents are directed to re-consider the claim of the petitioner for grant of promotion to the post of



Superintending Engineer with effect from the date the juniors have been granted promotion without taking into effect the adverse remarks mentioned in the A.C.R. of the year 1994-95. The aforesaid exercise should be completed within a period of six weeks from today.

Any consequential benefits found payable shall be paid within a period of further six weeks thereafter.

(Mohit Kumar Shah, J)

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