

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6268 of 2017

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Murari Rajak, aged about 43 years, Son of Ramawtar Rajak, Sector-8C,
Street, 37, Qr. No. 2397, Bokaro Steel City, Jharkhand- 827009.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Public Health Engineering Department, Patna Bihar.
2. Mr. Daya Shankar Mishra, Joint Secretary, Public Health Engineering Department, Patna Bihar.
3. Mr. Rajendra Prasad Singh Special Secretary, Public Health Engineering Department, Patna, Bihar.
4. Mr. Rajesh Kumar Choudhary, Son of Sri Lakhan Choudhary, Resident of Village- NewajGrih, P.O.- Warshaliganj, District- Nawada- 805130, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Archana Sinha @ Archana Shahi, Adv.
For the Respondent/s	:	Mr. S.Raza Ahmad-AAG5
For the Resp. No.4	:	Mr. Sudhir Kr. Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 26-06-2018

Heard learned counsel for the parties.

In this case, the petitioner has prayed for following
relieves:-

“1(I) Issuance of Writ in the nature of Mandamus for quashing of the office order dated 13.4.2017 by which the respondent no.3 has granted promotion to respondent no.4 on the post of Assistant Engineer (Mechanical).

(II) For directing the respondents to examine the seniority and the basic qualification for promotion as an Assistant engineer as well as the basic criteria for appointment on the post of Junior Engineer in PHED department.

(III) For directing the respondents to examine the qualification as well as the seniority for promotion.”



Basically, the petitioner is challenging the promotion of respondent no.4 to the post of Assistant Engineer (Mechanical). In the body of the writ application, the challenge has been made of the appointment of respondent no.4 itself but, there is no such prayer in the writ application challenging the appointment of respondent no.4.

The respondent no.4 was appointed in the year 2007 and the present writ application has been filed in the year 2017 i.e. after delay of ten years, the reason has been assigned of having no knowledge about the qualification of the respondent no.4. The respondent no.4 has already resigned from the post and is no longer in service of the State Government as has been informed that he has been selected as Assistant Professor.

As the respondent no.4 has already resigned from the post as also the appointment after ten years cannot be allowed to be challenged by the petitioner on account of equivalence of the qualification as having been claimed that the respondent no.4 was not holding the qualification of Diploma in Mechanical Engineering.

In view of the above, this Court does not find any purpose to proceed with the matter.



As there is no need to go into that issue, this writ application is dismissed with a liberty to the petitioner to take any legal course as is available in law.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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