

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17800 of 2008

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Birendra Kumar Singh, son of Sri Bhup Narain Singh, resident of Mohalla-
Sri Ganesh Dutta Nagar, Road No.1, Rewa Road, Bhagwanpur, District-
Muzaffarpur, presently posted as Assistant Engineer (Mechanical), Irrigation
Division, Bijikhorwa, Banka.

... .. Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Joint Secretary (Management Cell), Water Resources Department, Government of Bihar, Patna.
4. The Under Secretary, Water Resources Department, Government of Bihar, Patna.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Verma, Advocate
For the Respondent/s : Mr. Satyeshwar Prasad, A.C. to S.C.-7

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date : 08-05-2018

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

2. In this case, the petitioner is seeking relief that he should be given the benefit of promotion to the post of Assistant Engineer (Mechanical) in the Bihar Engineering Service, Class-II with effect from the date 14.01.1982 claiming percentage of share in 336 posts created on ad-hoc basis for the Assistant Engineer (Mechanical) in view of Resolution no.779 dated 06.11.1992. But, during the pendency of the writ petition, the



petitioner has modified his claim by filing Interlocutory Application No.2521 of 2018, claiming that he should be given the benefit of promotion to the post of Assistant Engineer (Mechanical) from 01.01.1993 though he has been granted actual promotion to the post of Assistant Engineer (Mechanical) from 05.08.1994.

3. The Interlocutory Application No.2521 of 2018 is allowed and the averments made in the Interlocutory Application will be treated to be the part of the main writ petition.

4. The basis of the claim is that the persons who are junior to the petitioner has been granted the benefit vide Notification no.39 dated 11.01.1994 with effect from 01.01.1993. Vide Notification No.1041 dated 05.08.1994 the petitioner was promoted to the post of Assistant Engineer (Mechanical) with effect from the date of issuance of notification, whereas certain persons who were juniors to the petitioners were given the promotion from 01.01.1993, vide Notification no.2063 dated 13.11.1998, Notification no.3946 dated 23.09.2005, Notification no.391 dated 13.02.2007 and notification no.1125 dated 17.11.2008 the persons who are junior to the petitioner have been promoted to the post of



Assistant Engineer(Mechanical) with effect from 01.01.1993 whereas, this petitioner has been deprived of the benefit of the post of Assistant Engineer (Mechanical) from the date the juniors have been granted the benefit.

5. The State has filed counter affidavit of the Interlocutory Application, but nowhere in the pleadings the State has denied the fact that the juniors to the petitioner have been granted the benefit of promotion to the post of Assistant Engineer (Mechanical) from 01.01.1993.

6. Learned counsel for the State has taken plea of delay and laches. In my view, the same is not sustainable, the reason is that they have granted the benefit of promotion even in the year 2008 when the writ petition was filed, so the question of delay and laches does not arise. When they were granting the benefit of promotion from 01.01.1993 to his juniors, then the employer should apply its mind that in the event of discriminatory action which has been acted upon with the petitioner requires correction.

7. In such view of the matter, this Court directs the respondents to give the benefit of promotion of Assistant Engineer (Mechanical) to the petitioner notionally with effect



from 01.01.1993 including all benefits. All the process should be completed by the respondents within a period of three months from the date of receipt/production of a copy of this order.

8. With the aforesaid observations and directions, this writ petition is allowed to the above extent.

(Shivaji Pandey, J)

pawan/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A.
Uploading Date	10.05.2018
Transmission Date	N/A.

