

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.9136 of 2013**

1. Mahendra Prasad Singh and Ors Son Of Late Deo Prasad Singh Resident Of House No. 550, Nehru Nagar, P.O. And P.S. - Patliputra, District - Patna, Pin Code - 800013
2. Sri Yugal Kishore Singh Son Of Late Rameshwar Singh Resident Of Flat No. 8 M/34, Bahadurpur Housing Colony, P.O. - Lohiyangar, P.S. - Patrakar Nagar, Kankarbagh, District - Patna , Pin Code - 800026
3. Sikander Prasad Sinha Son Of Late Uday Lal Sinha Resident Of Sar Ganesh Dutt Nagar, Reva Road, Bhagwanpur, P.O. - Bhagwanpur, District - Muzaffarpur, Pin Code - 842001
4. Birendra Prasad Son Of Late Gajendra Prasad Resident Of Saraswati Press Land, Old Market Shukla Road, P.O. - Bhagwanpur, District - Muzaffarpur, Pin Code - 842001

... .. Petitioners

Versus

1. The State Of Bihar through Principal Secretary, Department Of Mines And Geology, Government Of Bihar, Vikas Bhawan, New Secretariat Patna
2. The Principal Secretary, Department Of Mines And Geology, Government Of Bihar, Vikas Bhawan, New Secretariat Patna
3. The Joint Secretary To The Government , Department Of Mines And Geology, Government Of Bihar, Patna
4. The Accountant General, Bihar, Office Of The Accountant General, Beer Chand Patel Path, Patna

... .. Respondents

**Appearance :**

|                          |   |                                   |
|--------------------------|---|-----------------------------------|
| For the Petitioner/s     | : | Mr. Akash Deep                    |
| For the Respondent/s     | : | Mr.Satish Chandra Jha             |
| For A.G.Bihar            | : | Mr. Satyendra Kumar Jha           |
| For Department of Mines: |   | Mr. Naresh Dikshit, Spl. PP Mines |
|                          |   | Mr. Brij Bihari Tiwari            |

**CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD**  
**ORAL ORDER**

6      05-11-2019                      Petitioners have been granted promotion as Assistant Mining Officer from the post of Mines Inspector by Annexure 1 dated 18.6.1987 and 7.9.1987.

The petitioners claim that the promotion should be granted with effect from their acquiring eligibility for



promotion, which lies in between 1975-76. In this connection, petitioners rely upon decision of this Court in the case of ***Arwind Kumar & ors vs. State of Bihar & ors*** decided in ***CWJC No. 16049 of 2016***. The issue was earlier also raised by them when this Court had left the issue to be determined by the authorities. The authorities having considered the matter pursuant to direction of this court in the earlier writ proceeding bearing CWJC No. 6233 of 1997 have not granted the promotion with effect from the date of petitioner's eligibility. The order of rejection is impugned in the instant proceeding.

The issue stands settled in view of decision of this Court in the case of ***Arwind Kumar*** (supra). To that extent there would be no dispute, if there had not been any issue whether vacancy was available for such promotion as on the date on which the petitioners acquired eligibility.

Even upon remand the issue has not been settled. The authorities taking note of the fact that the vacancy position is not available for granting promotion to the petitioners from the date of acquiring qualification; and since inter se seniority also has to be determined with reference to the vacancy has not granted promotion from the date of their eligibility.

The issue in spite of remand by this Court has still



not been settled by the authorities. The legal position as per petitioners' Counsel stands settled in the decision of *Arwind Kumar* (supra).

In the circumstances, this Court would observe that the authorities should take stock of the vacancy position and the petitioners' seniority to claim the vacancy from the date of their acquiring eligibility or any other date prior to issuance of notification (Annexure 1).

Consideration has to be done by the respondent authorities in the light of decision of this Court in the case of *Arwind Kumar* (supra) since the claim of the petitioners has been pending since long and this is their second proceeding for the same relief this Court would only direct that the authorities should proceed to examine the claim expeditiously after verifying vacancy position and the petitioners' seniority.

In order to facilitate such consideration petitioners should place on record a detailed representation giving details of acquiring eligibility. Let such representation be filed within four weeks. In the event the same is done the authorities should consider the same expeditiously without undue delay and preferably within three months thereafter.

Writ petition stands disposed of.

(Madhuresh Prasad, J)

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