

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 11932 of 2005

Vishwanath Singh, Son of Late Hardeo Singh, Resident of Village-Pipra Ragho, P.O.-Rajepur, P.S.-Sahebganj, District-Muzaffarpur, at present posted as a peon in the office of Sub-Regional Employment Exchange, Laheria Sarai, Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Commissioner-cum-Secretary, Department of Labour Employment and Training, Govt. Bihar, New Secretariat, Bailey Road, Patna.
3. The Director, Employment and Training, Govt. Bihar, Patna.
4. The Joint Director, Employment, Government of Bihar, Patna.
5. The Assistant Director, Employment, Government of Bihar, Patna.
6. Assistant Director, Employment, Exchange-Darbhanga.
7. Assistant Director, Sub-Regional Employment Exchange Office, Dumka
8. Assistant Director, Sub-Regional Employment Exchange Office, Bhagalpur.
9. Assistant Director, Sub-Regional Employment Exchange Office, Jamshedpur.
10. Incharge, Assistant Director, Sub-Regional Employment Exchange Office, Jamshedpur.
11. Assistant Director (Employment), Sub-Regional Employment Exchange Office, Saharsa.
12. Assistant Director (Employment), Sub-Regional Employment Exchange Office, Patna.
13. Kumar Anirudh Singh, S/o Sri Sivarath Singh, at present posted at Sub-Regional Employment Exchange, Bokaro
14. Indu Shekhar Choudhary, S/o Late Panchaweshwar Choudhary, R/o Ballia, P.O. Shyamsagar Factory, District-Madhubani, presently through the Director, Employment Training, Nepal House, Ranchi, Jharkhand.
15. Anil Prasad, S/o Sri Shyam Narayan Prasad, at present posted as Employment Exchange, Bokaro Thermal Bokaro, Jharkhand.
16. Binod Kumar, S/o Sri Kapildeo Choudhary, at present posted at Sub-Regional Employment Exchange, Patna.
17. Ravi Bhushan Sharma, S/o Sri Makhan Lal Sharma, at present posted in office of Dy. Director, Sub-Regional Employment Exchange, Patna.
18. Janardan Prasad Singh, S/o Late Bhagwat Prasad Singh, R/o Chiniawala, P.S.-Punpun, District-Patna.
19. Indrasan Bharti, S/o Sri Rajat Mahto, at present posted at P and E Branch, Employment Exchange, Ranchi.
20. Ajeet Shankar, S/o Sri Prabha Shankar Prasad, at present posted in the office of Directorate Employment and Training (Employment), 4th Floor, New



Secretariat, Patna.

21. Masiur Rahman S/o Late Wali Alam, r/o Mohalla-Katra Madir, Sultanganj, P.S.-Sultanganj, Dist-Patna.
22. Sheo Kumar Rajak, S/o Sri Prabhu Rajak, at present working in the District Employment Exchange, Madhubani.
23. Subodh Kumar Yadav, S/o Sri Mithileshwar Prasad Yadav, R/o Vill-Phulwaria, P.O.-Dounili Phulwariya, Via-Lakhminia, Dist-Begusarai, through Director, Employment and Training, Nepal House, Ranchi, Jharkhand.
24. Binoda Nand Kuar, S/o Sri Sahdeo Kumar, R/o Vill and P.O.-Mankanpur, Via-Champanagar, Dist-Bhagalpur, through Director, Employment and Training, Nepal House, Ranchi, Jharkhand.
25. Niranjana Kumar Srivastava, S/o Sri Gautam Prasad Srivastava, at present working at Sub-Divisional Employment Exchange, Patna.
26. Sanjay Kumar Sinha, S/o K.N. Dutta, R/o Mohalla-Krishnapuri Colony, P.S.-Chapra, Saran, presently through the Director, Employment and Training, Nepal House, Ranchi, Jharkhand.
27. Ajit Kumar, S/o late Jagdish Prasad, R/o Makhdumpur, Digha Ghat, Dist-Patna.
28. Ram Gulam Mandal, s/o Sri Asharfi Mandal, R/o Vill-Anathalaya Road, P.O.-Katihar, Dist-Katihar, through the Director, Employment and Training, Nepal House, Ranchi, Jharkhand.
29. Badri Nath Pandey, S/o Sri Kapildeo Pandey, R/o Bihari Sao Lane, P.S.-Pirbahore, Dist-Patna, through Director, Employment and Training, Nepal House, Ranchi, Jharkhand.
30. Saroj Kumar Das, S/o Luro Das, R/o Vill and P.O.-Safapur, P.S.-Mayagaw, Dist-Begusarai.
31. Arun Kumar, Sub-Regional Employment Exchange, Patna.
32. Ajay Kumar, Sub-Regional Employment Exchange, Patna.
33. Rudra Narayan Singh, through Director, Employment and Training, Nepal House, Ranchi, Jharkhand.
34. Najir Haider, District Employment Exchange, Madhepura.
35. Kaushar Ali, a
36. Kamlesh Kumar Ram, Sub-Regional Employment Exchange, Jamshedpur, Jharkhand.
37. Tapeswar Rajak, District Employment Exchange, Saraikala, Kharsama
38. Smt. Shanti Kachhap, Office of Dy. Director Employment Exchange, Jamshedpur.
39. Umesh Kumar, Sub Regional Employment Exchange, Ranchi.
40. Shiv Narayan Choudhary, Employment Exchange, Chatra, Jharkhand.
41. Durga Khalko, District Employment Exchange, Chakardharpur.
42. Suresh Kumar Mahto, Employment Exchange, Chaibasa, Jharkhand.



43. Jagdeo Sahu, Sub-Regional Employment Exchange, Jamshedpur, Jharkhand.
44. Smt. Rina Singh, Sub-Regional Employment Exchange, Bokaro, Jharkhand.
45. Gopal Rajak, Sub Regional Employment Exchange, Jamshedpur, Jharkhand.
46. Arun Kumar Sinha, Sub Regional Employment Exchange, Jamshedpur, Jharkhand.
47. Hitesh Chandra Mandal, through Director, Employment and Training, Nepal House, Ranchi, Jharkhand.
48. Smt. Renu Kumari, through Director, Employment and Training, Nepal House, Ranchi, Jharkhand.
49. Kishore Kumar Sinha, through Director, Employment and Training, Nepal House, Ranchi, Jharkhand.
50. Joseph Hembram, through Director, Employment and Training, Nepal House, Ranchi, Jharkhand.
51. Jai Prakash Sinha, Office of Dy. Director, Dumka, Jharkhand.
52. Putul Some, Sub-Regional Employment Exchange, Dumka, Jharkhand.

... .. Respondent/s

Appearance :

For the Petitioner/s : M/s Krishna Kant Singh, Anil Kr Singh, Advocates
For Respondents 13 to 30: M/s Kumar Ravish, Kashyap Kaushal, Advocates

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 30-08-2019

Heard Mr Krishna Kant Singh appearing for the petitioner as well as the learned State Counsel.

2 Petitioner has assailed the decision of the Authorities dated 07.04.2005 whereby the recommendation of the Assistant Director (Employment) in favour of the petitioner's promotion from Class IV Post to Class III Post has been rejected.

3 Petitioner had earlier approached this Court for relief of promotion in other proceedings, last being CWJC No 1376 of



2004. On 18.01.2005, the writ petition was disposed of without going into the merits of the recommendation forwarded by the Assistant Director (Employment) dated 14.02.2004. This Court had observed that if there is no legal impediment, then the recommendation should be considered and appropriate order should be passed in accordance with law.

4 Mr Singh, learned counsel for the petitioner submits that “in accordance with law” would mean the extant provisions in respect of promotion including Memo No 4524 dated 01.06.1999. That was a provision which was applicable to the petitioner’s claim at the time the Writ Court disposed of the petitioner’s writ petition.

5 Records of the instant proceedings, however, make it abundantly clear that the Memo of 01.06.1999 was never relied upon by the petitioner till disposal of his last writ petition (CWJC No 1376 of 2004).

6 Order dated 18.01.2005 passed in CWJC No 1376 of 2004 casts an obligation upon the authorities to consider the petitioner’s claim in accordance with law. The only rider was that there should be no legal impediment. If the Memo of 01.06.1999, which is referred by the petitioner’s counsel today, was available for consideration of petitioner’s case, then the same had to be done



in terms of the order dated 18.01.2005 passed in CWJC No 1376 of 2004. However, petitioner never based his claim on basis of the Memo of 01.06.1999.

7 Being faced with such difficulty that the petitioner had never staked his claim on the basis of the said Memo, Mr Singh submits that this Court should direct that the petitioner's claim should be considered as per his eligibility on the date on which he became eligible for the promotion under the extant provisions.

8 This Court would not be in a position to give any such direction as the same would amount to reviewing the order dated 18.01.2005 passed on the petitioner's earlier writ proceedings arising out of CWJC No 1376 of 2004.

9 As of today, the petitioner, in view of the order passed in his earlier proceedings which is binding inter parties, would not be in a position to claim anything in excess of what has been granted to him in the earlier writ proceedings.

10 As per the same, claim of the petitioner has been considered and rejected by the Authorities by the impugned order.

11 Additional fact is that the petitioner has finally been promoted in the year, 2007 as per the extant provisions.



12 In the circumstances, the petitioner has no enforceable right to claim benefit of promotion with effect from the date he became eligible.

13 Writ petition is dismissed.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.09.2019
Transmission Date	NA

