

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12893 of 2019

=====

Sanjay Kumar Bharti, aged about 53 years, Gender-Male, Son of Nand Lal Choudhary, Resident of H-192, Harmu, Housing Colony, Near Aastha Nursing Home, Harmu, Doranda, Ranchi, P.S.- Doranda, District- Ranchi, Jharkhand- 834002.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Bihar, Patna.
2. The Joint Secretary, Road Construction Department, Government of Bihar, Patna.
3. The Engineer-in-Chief, Road Construction Department, Bihar, Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Kundan Kumar, Adv.

For the Respondent/s : Mr. Amit Prakash (GA13)

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 01-07-2019

Though the petitioner has approached this Court primarily for the relief, viz., direction to the respondents for posting him as Executive Engineer in accordance with the notification dated 08.03.2019, but while expatiating on the aforesaid relief, the petitioner has also made a request for



directing the respondents to take into account that even juniors to him in the list of such candidate who have been promoted to the post of Executive Engineer have been given their posting to the exclusion of the petitioner.

2. It appears from the records that the petitioner served as Assistant Engineer in the Road Construction Department, Govt. of Bihar, Patna from 03.01.1995. With the bifurcation of the State of Bihar and Jharkhand in the year 2000, as some of the employees were asked to join the State of Jharkhand, the petitioner also was sent to Jharkhand for the purposes of establishment of the Road Construction Department Cadre in the newly created State of Jharkhand. The decision with respect to the Cadre of the Road Construction Department was taken for the first time in the year 2017 by the Central Government, which notified that all those persons who were working in the State of Bihar prior to the bifurcation of the State shall be deemed to be the employees of the State of Bihar. The petitioner, therefore, was allotted the State of Bihar with effect from 15.11.2000 only, but the impact of the aforesaid decision



became effective from the date of the notification of the Central Government.

3. The Road Construction Department, it has been stated, considered the case of the petitioner and others and finding them eligible for being promoted to the post of Executive Engineer, granted promotion *vide* Notification No. 3113(S) dated 08.03.2019.

4. From the perusal of the notification referred to above it would appear that the pecuniary benefit was directed to be given to such persons only on their taking over the charge of the post. The petitioner, it has been submitted, joined in the office of Joint Secretary, Road Construction Department on 11.03.2019, which was accepted, but till date, the petitioner has not been posted as an Executive Engineer.

5. The order of promotion has been stated to be subject to any decision of the Supreme Court in *The State of Bihar & Ors. Vs. Sushil Kumar Singh & Ors. (SLP No. 29770 of 2015)*.

6. The petitioner has further been aggrieved by



the fact that some of the persons, who were late entrants in the service, have been given actual posting, whereas he has been deprived of the benefit of the notification referred to above.

7. The representation of the petitioner before the Principal Secretary, Road Construction Department, Govt. of Bihar, Patna has not yielded any result.

8. The petitioner, in the writ petition, has also referred to the fact that if a gradation list is prepared, his place should be determined in accordance with the seniority and has named two persons beneath whom he ought to be placed.

9. Under the aforesaid circumstances, this Court deems it appropriate to direct the petitioner to make a representation before the Principal Secretary, Road Construction Department, Govt. of Bihar, Patna within a period of four weeks, who, on receipt of the same, shall look into the facts and pass necessary order in accordance with law within a further period of four weeks thereafter.

10. Needless to state that any order passed by



the Principal Secretary, Road Construction Department,
Govt. of Bihar, Patna shall be subject to the final decision in
SLP No. 29770 of 2015, referred to above.

11. With the aforesaid observation and direction,
the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	02.07.2019
Transmission Date	N/A

