

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 14649 of 2014

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Hira Lal Paswan son of Late Mauze Lal Paswan, resident of village -
Jognijaga, P.S. - Sakra, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Water Resources Department, Bihar, Patna
2. Chief Engineer, Water Resources Department, Muzaffarpur.
3. Superintending Engineer, Tirhut Canal Circle, Ratwara, Muzaffarpur.
4. Executive Engineer, Tirhut Canal Division, Ratwara, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr Sanjay Kumar, Advocate
For the Respondent/s : Mr Ravi Kumar, AC to GP XIII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 27-08-2019

Heard learned counsel for the petitioner as well as the learned State Counsel.

2 Petitioner has approached this Court for quashing of the Office Order dated 25.01.2014 issued by the Chief Engineer, Water Resources Department, Muzaffarpur withdrawing the benefit of first time bound promotion. The said action has been taken 27 years after the first time bound promotion was granted to the petitioner with effect from 07.01.1987. Learned counsel for the petitioner submits that the reasons assigned in the order withdrawing the benefit of first time bound promotion after 27



years is not sustainable in the eyes of law. The benefit has been withdrawn by assigning a reason that petitioner, as per the requirements, has not passed the Accounts Examination. It is submitted by the petitioner's counsel that such a requirement could not have been raised now when the grant was about 27 years back by the competent authority, and that also without any opportunity of hearing. He further submits, relying upon decision in the case of Kusheshwar Nath Pandey -Versus- State of Bihar & Others, (2013) 12 Supreme Court Cases 580, that the benefits of time bound promotion had been granted without any misrepresentation or fraud. As such, the order withdrawing the benefit without complying with principles of natural justice is unsustainable in view of decision of the Apex Court passed in the case of Kusheshwar Nath Pandey (supra). The action, impugned in the instant writ proceedings, cannot be sustained.

3 Having considered the submissions, this Court would observe that the first time bound promotion granted to the petitioner cannot be withdrawn on the basis of the reason assigned in the impugned order regarding non-passing of the Accounts Examination, that also without affording any opportunity to the petitioner.



4 Impugned order dated 25.01.2014 issued by the Chief Engineer, Water Resources Department, Muzaffarpur is hereby quashed.

5 The petitioner, as a result, would be entitled to all consequential benefits including refund.

6 Writ petition stands allowed.

(Madhuresh Prasad, J)

M.E.H./-

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

