

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19214 of 2019

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Murari Rajak S/o Ramawtar Rajak R/o Sector-8C, Street-37, Qr.No.2397,
Bokaro Steel City, Jharkhand-827009

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Public Health Engineering Department, Patna, Bihar.
2. The Engineer in Chief cum Special Secretary, Public Health Engineering Department, Patna, Bihar.
3. The Joint Secretary, Public Health Engineering Department, Patna, Bihar.
4. The Chief Engineer (Mechanical) Public Health Engineering Department, Patna, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar
For the Respondent/s : Mr.S.Raza Ahmad (AAG-5)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

2 25-10-2019 Heard learned counsel for the parties.

2. The petitioner was appointed as Junior Engineer under Public Health Engineering Department on 19.03.2007. According to the petitioner, he has been confirmed in service by an order dated 26.07.2016. The petitioner is relying on a resolution of Road Construction Department to make out a case that there is some fixed quota for appointment by promotion against the post of Assistant Engineer under the Department for such Junior Engineers, who acquire A.M.I.E. or any other equivalent Engineering Degree and have served as Junior Engineer for a minimum period of five years. It is further



asserted that by applying the decision of the Rural Engineering Department as contained in the said resolution dated 21.0.20.2008 certain persons were earlier granted promotion to the rank of Assistant Engineer as they had acquired AMIE qualification. One of such persons, who was given the promotion, namely, Rajesh Kumar Choudhary has tendered his resignation and left the service, the petitioner has asserted. The petitioner contends that he is eligible to be considered against the post, which has become vacant consequent upon resignation of Rajesh Kumar Choudhary.

3. The petitioner has approached the Principal Secretary, Public Health Engineering Department by filing a representation. A copy of the representation has been brought on record by way of Annexure P/7 to the writ application. There is no clue whether there is any statutory Rule governing recruitment/appointment to the post of Assistant Engineer in the cadre in question.

4. Promotion to a post cannot be claimed by way of right though a person can claim consideration of his promotion, in accordance with law. The petitioner had earlier approached this Court by filing a writ application, giving rise to CWJC No. 6268 of 2017, which was disposed of by an order dated



26.06.2018, requiring the petitioner to approach the authorities. The petitioner contends that till date no decision has been taken either way, by the competent authority.

5. Considering the facts and circumstances of the case, this writ application is disposed of with a direction to the Principal Secretary, Public Health Engineering Department, Government of Bihar to consider the petitioner's case and decide whether a case for consideration for promotion of the petitioner to the rank of Assistant Engineer is made out or not on the basis of his AMIE qualification against the post which has become vacant consequent upon resignation of an Assistant Engineer as noted above.

6. It is made clear that no observation made in the present order shall be treated to be any expression on the merit of the petitioner's claim of consideration for promotion to the rank of Assistant Engineer on the basis of the qualification as indicated above. The Principal Secretary shall be independent to take his own decision, in accordance with law.

7. This disposes of the application.

(Chakradhari Sharan Singh, J)

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