

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17696 of 2011**

1. Rajendra Paswan S/O Late Ram Charan Paswan R/O Village-Dharamapur ,  
P.O and P.S Hatidah, District-Patna, At Present Posted As Superintending  
Engineer, Rural Development Department Hqrs, Patna.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR  
2. The Principal Secretary, Road Construction Department ,Government Of  
Bihar, Patna.  
3. The Joint Secretary, Road Construction Department, Government Of Bihar,  
Patna.

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr.Ravi Verma

For the Respondent/s : Mr.Subhash Chandra Mishra, SC 16

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

8      13-02-2020                      Heard counsel for the petitioner and counsel for the  
respondents-State.

The issue narrows down to the question whether a  
charge memo dated 29.11.2011 issued against the petitioner on  
Parpart 'Ka' under the Bihar CCA Rules, 2005 can be made the  
basis of depriving the petitioner's benefit of promotion with  
effect from 23.09.2006.

This question has arisen since claim in the writ  
petition is with effect from 29.03.2006, when juniors to the  
petitioner have been promoted as Superintending Engineers.  
The same has been resisted by the State by raising a plea in the



counter affidavit that a charge memo has been issued on 29.11.2011

The law in this regard is well settled. The apex court in the case of Union of India & ors vs. K.V. Jankiraman & ors reported in (1991) 4 SCC 109 has clearly held that the date of initiation of proceedings is the date on which charge memo is served. The charge memo is dated 29.11.2011.

Having regard to the law of the apex court in the case of Jankiraman (supra), the charge memo dated 29.11.2011 cannot be made the basis of non-consideration of petitioner's claim for promotion, if his juniors have so been granted promotion with effect from 23.09.2006 as Superintending Engineers.

Writ petition is, therefore, disposed of with direction to the respondent no. 2 (Principal Secretary, Road Construction Department, Govt. of Bihar, Patna) to take decision on the petitioner's claim for shifting back his promotion with effect from 23.09.2006 ignoring the effect of charge memo dated 29.11.2011.

Let final decision be taken expeditiously without undue delay and preferably within three months from the date of receipt/production of a copy of this order.



Writ petition stands disposed of.

**(Madhuresh Prasad, J)**

s.hassan/-

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