

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9248 of 2021

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Rajendra Prasad Rajan Son of Late Mahichand Prasad Resident of B-202,
Millennium House, P.S.- Shastri Nagar, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar, Patna.
2. The Principal Secretary, Road Construction Department, Bihar, Patna.
3. The Additional Secretary, Road Construction Department, Bihar, Patna.
4. The Deputy Secretary, Road Construction Department, Bihar, Patna.
5. The Secretary, Bihar Public Service Commission, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhu Nath Pathak, Advocate
For the Respondent/s : Mr. Lalit Kishore (AG)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 16-02-2022

This matter is heard *via* video conferencing due to circumstances prevailing on account of the COVID-19 Pandemic.

Learned State counsel accepts notice for respondents.

Learned counsel for the petitioner is hereby directed to serve a copy of the petition on learned counsel for the State if it not already served.

In the instant petition, petitioner has prayed for the following relief(s):-

*“For issuance of writ of
mandamus for directing the Re-*



spondents to consider for promotion of petitioner to the post of Superintending Engineer (Civil) w.e.f. the date of promotion to his immediate junior i.e. 23.11.2017 as no departmental proceeding or criminal case was pending on the date of recommendation of Departmental Promotion Committee i.e. on 11.09.2017 even then, the promotion of the Petitioner was kept under seal cover, which is absolutely illegal in view of land-mark judgment passed by the Hon'ble Supreme Court in Union of India Vrs. K. V. Jankiraman reported in (1991) 4 SCC-109 judgment issued by this Hon'ble Court in LPA No. 239/2015 on 20.02.2018."

Learned counsel for the petitioner submitted that in support of the aforesaid relief petitioner has submitted representation on 01.10.2018 (Annexure-9). He is also relying on judgment of this Court passed in LPA No. 239 of 2015 decided on 20.02.2018. Further, he is pointing out Hon'ble Apex Court decision rendered in the case of **Union of India & Ors. vs. K.V. Jankiraman & Ors.** reported in **(1991) 4 SCC 109**. It is submitted that unnecessarily petitioner's name has been kept in sealed cover in the absence of framing of article of charges in a disciplinary proceedings or charge-sheet in a criminal case. It is also submitted that he was punished while imposing penalty of withholding of one increment on 16.03.2016. The increment of the petitioner was due in the



month of July, therefore, in the month of July, 2017 itself the penalty order dated 16.03.2016 has spent its force. Therefore, there is no hurdle for keeping the petitioner's name under sealed cover procedure. In fact, Government Resolution dated 11.02.2002 is also not taken into consideration, therefore, petitioner has presented this petition.

In the light of the aforesaid factual aspect and the fact that the petitioner has submitted representation on 01.10.2018 (Annexure-9) read with cited decision the competent authority is hereby directed to examine the petitioner's grievance. If the petitioner is entitled for promotion to the post of Superintending Engineer (Civil) from the date of his junior who is stated to have been promoted on 23.11.2017 the same shall be considered in passing a detailed speaking order. If the petitioner is entitled for promotion to the post of Superintending Engineer (Civil) w.e.f. 23.11.2017 the petitioner's pay shall be fixed in the post of Superintending Engineer (Civil) and petitioner is also entitled to difference of salary from 23.11.2017 till date on which the petitioner is likely to be promoted. If the petitioner is otherwise not eligible in that event necessary speaking order shall be passed and communicated to the petitioner. The above exercise shall be completed within a period of four months from the date of receipt of this order.



With the aforesaid observations, the present writ petition
stands disposed off.

(P. B. Bajanthri, J)

Vikash/-

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

