

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19130 of 2014

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Sri Kant Dwivedi, Son of Sri Bhuwaneshwar Dwivedi, Resident of Mohalla N.H. Circle Colony, Balgobind Bigaha Dehri-on-Sone, Police Station Dehri, District Rohtas. At present posted at National Highway Division, Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, R.C.D.
2. The Engineer-in-Chief -cum- Additional Commissioner -cum- Special Secretary, Road Construction Department, Government of Bihar, Patna.
3. The Chief Engineer, National Highway Wing, Road Construction Department, Bihar, Patna, Nirman Bhawan, Baily Road, Patna
4. The Superintending Engineer, National Highway Circle, Dehri-on-Sone, Rohtas.
5. The Executive Engineer, National Highway Division, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma, Senior Advocate with
Mr. Anuj Kumar, Advocate

For the Respondent/s : Mr. Manish Kumar, AC to GP-12

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
and
HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH)

Date : 05-12-2022

Heard Mr. Yogesh Chandra Verma, learned senior counsel duly assisted by Mr. Anuj Kumar, learned counsel for the petitioner and Mr. Manish Kumar, learned AC to GP-12 for the State.

2. The petitioner moved the Court for the following relief:

*(A) A writ in the nature of mandamus or
any other appropriate writ / writs, direction /*



directions, order/ orders, commanding the respondent authorities for the following:-

(I) To hold that the petitioner is entitle to promotion from class IV to Class III with effect from 01.10.92.

(ii) To hold the office order as contained in memo no. 160 dated 20.03.2012, to the effect to promotion from class IV to Class III has been effective from the date he assumes charge.

(iii) To that the petitioner have been promoted from Class IV- Class III with effect from 01.10.1992 and pay him all the monetary benefits, enhance salary etc to which he is entitled to by virtue of the said promotion.

(B) To any other relief/reliefs to which the petitioner is found entitled to.

3. The case of the petitioner is that pursuant to a direction of this Court in C.W.J.C. No. 13803 of 2011 by order dated 13.12.2011 for considering his case for promotion, though the authorities have granted him promotion, but the effective date has been made from the date, he actually takes over charge of the post.

4. This, according to the learned senior counsel for the petitioner is not correct for the reason that when the petitioner has been given the charge of the higher post in the year 1992 itself and thus the effective date of promotion, ought to have been from that



very date. He further submits that only ground for the authority to grant such promotion from the date on which the petitioner takes charge of the post is that no effective date was indicated in the order by this Court.

5. Learned counsel for the State submits that the authorities have granted him promotion and as per the general Rule, the actual benefits accrued from the date a person joins the promoted post, which has been done in the present case also. Further, it is submitted that the Court's in the earlier round had noticed the fact that there was no post available and thus a direction was to consider providing of opportunity for promotion by the authority and in fact the action of the authorities is bona fide that they have granted promotion to the petitioner.

6. At this juncture, learned senior counsel for the petitioner submitted that the writ petition be disposed of with liberty to the petitioner to represent the authority for consideration of shifting back the due date of promotion without feeling handicapped in view of their being no specific date indicated by the High Court in the previous order.

7. Learned counsel for the State submitted that in the year 1992 itself, the competent committee had deliberated the matter and in the minutes it is clearly written that neither there was



a roster clearance at the relevant point of time nor posts were available, which has also been noted by the Court in the earlier round of litigation.

8. Be that as it may, as prayed for by the learned senior counsel for the petitioner, the writ petition stands disposed of with liberty to him to approach the competent authority for taking a decision specifically with regard to whether such promotion should be given from retrospective date. The Court would only indicate that since the High Court has not specified any date shall not come in the way of the authorities to take a decision independently in accordance with law.

(Ahsanuddin Amanullah, J)

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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