

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18447 of 2014

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Madhav Jha S/o Late Saryug Jha Resident of Village - Chainpur, P.O. - Chainpur, P.S. - Bangaon, District - Saarsa.

... .. Petitioner

Versus

1. The State of Bihar
2. The Secretary, Minor Water Resources Department, Government of Bihar, Patna.
3. The Project Coordinator-cum-Engineer in Chief, Minor Water Resources Department Tubewell, Vishweshwaraiya Bhawan, Bihar, Patna.
4. The Chief Engineer (North), Minor Water Resources Department, Tubewell Project, Government of Bihar, Muzaffarpur.
5. The Superintending Engineer, Tubewell Circle, Purnia.

... .. Respondents

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Appearance :

For the Petitioner : Mr. Dhirendra Kumar Jha, Adv.
For the State : Mr. M.K. Upadhyay, AC to GP-3

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 06-12-2022 Heard learned counsel for the petitioner and learned counsel for the State.

2. Rejoinder to the counter affidavit (hard copy) has been filed which is taken on record.

3. The petitioner, has approached this Court, seeking direction for his promotion in Class-III post.

4. Learned State counsel has appeared. Relying upon a Circular dated 05-10-1991, it is submitted that the promotion from Class- IV to Class III, in case of persons, who have been appointed on compassionate basis, is not admissible.

5. Petitioner's counsel, however, submits that the



Minor Water Resource Department has come out with a decision dated 31-08-2015 bearing No. 705, wherein, the Authorities have now decided that promotion may also be granted to those, who initially were appointed on compassionate grounds. The Bihar Collectorate Clerical Cadre (Recruitment and Service Condition) Rules, 2011 (for short 'Rules of 2011'), therefore, have to be read now in harmony with this decision of the State Government dated 31-08-2015. The decision of the State Government, relied upon, has come into existence much after filing of the instant writ petition. Therefore, there is no consideration as per the said decision. The counter affidavit rejecting the petitioner's claim was also sworn and filed prior to coming into effect the decision relied upon by the petitioner's counsel. In the circumstance, learned counsel for the petitioner would be approaching the Authority in respect of his claim for promotion to a Class-III post.

6. In view of the aforesaid submissions and the facts and circumstances noted above, pendency of the instant writ application would serve no useful purpose. The writ application, therefore, is disposed of.

7. The petitioner would be at liberty to approach the Authority for consideration of his case. If the petitioner files his



application before the Superintending Engineer, Tubewell Circle, Purnia (respondent No.5) within a period of four weeks then a reasoned and speaking order in respect of his claim is required to be passed within a period of eight weeks thereafter.

(Madhuresh Prasad, J)

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