

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.188 of 2018
In
Letters Patent Appeal No.1761 of 2010

1. Vijay Kumar, Son of Sri Brijnandan Singh, Resident of Village- Birampur, Post Officer Lohara, P.S. Harnaut District- Nalanda.
2. Anil Kumar, Son of Late Devendra Prasad, Resident of Main Road, Masaurhi, Post Office and Police Station Masaurhi, District Patna.

... .. Petitioner/s

Versus

1. Amrit Lal Meena, Son of name not Known to the Petitioner, Presently Principal Secretary, Road Construction Department, Government of Bihar, Patna and
2. Secretary, Road Construction Department, Government of Bihar, Patna the Name of this Opposite Party is Not scribed in view of the fact that Presently the Post is not hold by anyone
3. Rajendra Prasad Gupta Son of Name not to the petitioner presently Additional Secretary, Road Construction Department, Government of Bihar, Patna.
4. Laxmi Narain Das Son of name not known to the petitioner, presently Engineer-in-Chief-Cum-Additional Commissioner-Cum-Special Secretary, Road Construction Department, Government of Bihar, Patna
5. The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Santosh Kumar Sinha, Advocate
For the Opposite Party/s : Mr. Jitendra Kumar, Advocate

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

Date : 20-04-2023

Heard the learned counsel for the



parties.

By the judgment dated 15.07.2016/ 18.07.2016 passed in L.P.A. No. 1761 of 2010, a Division Bench of this Court had directed that the petitioners would be entitled to notional promotion to the post of Assistant Engineer from such time when their juniors got such promotion and then again when their juniors were granted promotion to the post of Execution Engineer, they would get their notional promotion to the post of Executive Engineer along with their juniors. It was further observed that once they are granted notional promotion either to the post of Assistant Engineer or Executive Engineer, the original seniority would be restored. In case there is no vacancy in the cadre for giving effect to such direction of the Court, the State would create supernumerary posts for accommodating the petitioners at the respective levels. These promotions, the Bench went on to declare, would all along be with all consequential benefits. It was, thus, observed that in this way only, the injustice which was meted out



to the petitioners could be redressed and weeded out.

Pursuant to the aforementioned directions, the Special Secretary, Road Construction Department, granted promotion to the petitioners on the post of Assistant Engineer with the condition that such promotion with retrospective effect would be made after creation of supernumerary posts as well as after obtaining necessary approval of the Finance Department of Government of Bihar. It was also noted that the promotion would be provisional and would be subject to final outcome of SLP (C) No. 29770 of 2015 (State of Bihar Vs. Sushil Kumar Singh & Ors.).

It appears from the show-cause reply filed by the State that a meeting of Administrative Post Creation Committee took place on 30.07.2018, which approved the proposal of creation of supernumerary posts for granting promotion to the petitioners with retrospective effect. Thereafter, the Principal Secretary, Road



Construction Department issued a memorandum draft with the proposal for creation of supernumerary posts for granting promotion with retrospective effect and forwarded the same to the Cabinet Secretariat Department, Government of Bihar for it to be placed before the Cabinet. The Cabinet sat on 23.10.2018 and approved the proposal for creation of supernumerary posts, so that the petitioners could be granted promotion with retrospective effect.

Two supernumerary posts were sanctioned and the matter was referred to the Finance Department for necessary consent.

The Finance Department also granted advice to grant promotion to the petitioners from the date of their juniors, whereafter the petitioners were granted promotion to the post of Assistant Engineer with effect from 18.05.2005.

It further appears from the supplementary show-cause reply that the seniority of the petitioners was finally determined in the civil list of Assistant Engineers.



In order to ensure compliance of rest of the judgment to further grant promotion to the petitioners to the post of Executive Engineers, the process was set afoot, but no further action was taken for the reason of the ban on any promotion in view of the pendency of the case in the Supreme Court, namely, SLP (C) No. 29770 of 2015 (State of Bihar Vs. Sushil Kumar Singh & Ors.).

It appears that the ban has now been lifted.

With such development, there should be no difficulty in compliance of the judgment passed by the Division Bench in its entirety.

Mr. Jitendra Kumar, learned Advocate for the State submits that necessary promotion to the post of Executive Engineer shall be given to the petitioners in due course with all financial benefits.

In view of such statements, we close this contempt petition with the liberty to the petitioners to revive this petition, if such benefits do not come to them within a reasonable period of



time, preferably within a period of next six months.

The petition stands disposed off accordingly.

(Ashutosh Kumar, J)

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
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