

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15229 of 2010

PRABHU NATH PRASAD S/O Late Vishundev Prasad R/O At
P.O.Chamanpura, P.S.Bainkunthpur, Distt-Gopalganj, Presently Residing At
House No.5, Sardar Patel Path, North S.K.Puri, Patna-800013

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The Secretary, Department Of Water Resources Government Of Bihar, Patna
3. The Joint Secretary, Water Resources Department Government Of Bihar, Patna
4. Deputy Secretary, Water Resources Department Government Of Bihar, Patna
5. Under Secretary, Water Resources Department Government Of Bihar, Patna
6. The Secretary, Department Of Minor Irrigation Government Of Bihar, Patna
7. The Joint Secretary, Department Of Minor Irrigation Government Of Bihar, Patna
8. Additional Departmental Inquiry Commissioner, Department Of Personnel And Administrative Reforms Government Of Bihar, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Pushkar Narain Shahi, Sr. Advocate
For the Respondent/s : Mr.Shiv Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 28-11-2023

Heard Mr.Pushkar Narain Shahi, learned senior counsel
for the petitioner and learned counsel appearing for the State.

2. This writ application has been filed for the following
reliefs:

(i) For commanding the respondents to forth consider
the case of the petitioner for grant of promotion to the post of
Superintending Engineer from appropriate date and at least from
the date his juniors were granted such promotions (on 29.07.2002)



after granting exemption to the petitioner from Hindi Departmental Examination for which he had duly applied as also to grant to the petitioner increments which would accrue to him right from the time when the petitioner was posted as Assistant Engineer and also to consider his case for grant of promotions under Assured Career Progression Scheme.

(ii) For further commanding the respondents to conclude the departmental proceeding which had been initiated against him vide resolution No.3250 dated 10.8.2005 the pendency of which is causing obstructions in granting promotion to the petitioner as Superintending Engineer from appropriate date.

(iii) For grant of any other incidental, consequential or other appropriate relief/reliefs to which the petitioner may be found entitled.

3. Learned senior counsel for petitioner submits that the promotion of the petitioner has not been given to the post of Superintending Engineer from appropriate date and at least from the date his juniors were granted such promotions i.e. on 29.07.2002 after granting exemption to the petitioner from Hindi Departmental Examination for which he had duly applied as also to grant to the petitioner increments which he has entitled according to law.



4. Learned senior counsel for the petitioner further submits that the promotion of the petitioner to the post of Superintending Engineer has been denied by the authority concerned on the ground that the departmental proceeding was pending against the petitioner and in which the final order has been passed after his retirement vide punishment order dated 19.10.2012 (Annexure-19 to the supplementary affidavit) for which the respondent had recovered from his pension while withholding 5% of his pension for five years. Learned senior counsel for the petitioner outrightly submits that the order dated 19.10.2012 was the subject matter of CWJC No.21218 of 2013 which was allowed in favour of the petitioner vide order dated 17.02.2023 by which a Coordinate Bench of this Court has set aside the punishment order dated 19.10.2012 and directed the respondents to pay 5% of his pension for five years and the arrears shall carry interest @ 9% per annum with cost.

5. Learned counsel for the State, on the other hand, fairly submits that in view of the order dated 17.02.2023 passed in CWJC No.21218 of 2013 this writ application may be disposed of with direction to the State to take a decision with respect to the promotion of the petitioner to the post of Superintending Engineer from appropriate date and at least from the date his juniors were



granted such promotions (on 29.07.2002) and revised the pension accordingly and the arrears of salary also.

6. Accordingly, this writ application stands allowed with the direction to the State-respondents especially the respondent Nos.2 and 6, the Secretary, Department of Water Resources, Government of Bihar, Patna and the Secretary, Department of Minor Irrigation, Government of Bihar, Patna to take a decision within a period of three months from the date of receipt/production of a copy of this order to pay all the consequential benefits to the petitioner alongwith arrears of salary, if any, within next three months.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.12.2023
Transmission Date	11.12.2023

