

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 16034 of 2012

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Upendra Singh son of Khobhari Singh, resident of village Bercup, P.O. and
P.S. Darihat, District Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Road Construction Deptt., Govt. of Bihar, Patna.
3. The Engineer-in-Chief, Road Construction Department, Govt. of Bihar, Patna.
4. Chief Engineer, Road Construction Department, N.H.Mechanical, Govt. of Bihar, Patna.
5. The Superintending Engineer, Road Construction Department, N.H.Mechanical Ranchi,
6. The Superintending Engineer, N.H. Mechanical, Circle, Patna.
7. The Executive Engineer, Road Division, N.H. Hazaribagh, Mechanical, Hazaribagh.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar No. 1, Advocate
For the Respondent/s : Mr.Ashok Kumar Keshri, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

10 09-05-2024 Heard Mr. Arun Kumar No.1, learned counsel

 appearing on behalf of the petitioner and Mr. Ashok Kumar

 Keshri, learned counsel for the Respondents/State.

2. In the first paragraph of the petitioner, the petitioner

has sought for following relief(s), which is re-produced

hereinafter : -

“That by the present writ petition, the poor and
helpless petitioner craves indulgence before this
Hon’ble Court for grant of similar reliefs to this
petitioner, as it has been granted to the similarly
situated petitioners of CWJC NO.7772 of 2006
(Prem Prakash Singh and another Versus The State of
Bihar vide its order dated 02.12.2010 contained in
Annexure-1 and also to the exactly similarly situated



petitioners of CWJC No.11776/2006 (Sanjay Kumar and others Versus The State of Bihar and others) vide its order dated 25.7.2007 contained in Annexure 2 in the light of Articles 14, 15 and 16 of the Constitution of India.

And further for directing the respondents to reinstate the petitioner on his previous respective post of Mechanical Assistant with all consequential benefits in the Road Construction Department, Government of Bihar, Patna.

And further for issuance of any other appropriate writ or writs, direction or directions as it may be deemed fit and proper to the facts and circumstances of this case.”

3. The case of the petitioner is that he was initially engaged on temporary basis as Mechanical Assistant on 03.12.1994, vide letter dated 03.12.1994 contained in Memo No. 1189 issued by the Superintending Engineer, National Highway (Mechanical) Circle, Patna and thereafter, the petitioner was engaged for three months, vide order dated 01.06.1995 issued by the Executive Engineer (Mechanical) N.H. Circle, Hazaribagh and further his service was extended till 04.06.1995 vide letter dated 16.05.1995 contained in Memo No.252 issued by the Executive Engineer, N.H. (Mechanical) Scheme, Hazaribagh and his basis remuneration was also enhanced, vide memo no.404 dated 11.06.1996 issued by the Executive Engineer, National Highway (Mechanical) Division, Hazaribagh and his salary was again enhanced, vide order dated



24.01.1997 contained in Memo No.98 issued by the Executive Engineer, National Highway (Mechanical), Hazaribagh. As such, the petitioner claims to be posted as Mechanical Assistant from 03.12.1994 to October, 1998 about four years against a sanctioned post.

4. The petitioner had earlier filed CWJC No.13159 of 2000 along with the other similarly situated persons for regularization of their services and in the light of the order passed by this Court on 22.01.2007, a Committee of three Secretaries was constituted and after verification, the Committee rejected the claim of the petitioner, vide order dated 20.11.2008 passed in Misc. Case No.1733 of 2007. The petitioner has claimed that his case was rejected by a three men Committee without considering the fact that similarly situated employees of the Road Construction Department, namely, Prem Prakash Singh and Sanjay Kumar was considered vide order passed 02.12.2010 passed in CWJC no.7772 of 2006 and vide order dated 25.07.2007 passed in CWJC NO.11776 of 2006 respectively.

5. Learned counsel appearing on behalf of the petitioner in the aforesaid facts and circumstances of the case submitted that the case of the petitioner has been rejected in



most mechanical manner without giving any due opportunity of hearing to the petitioner and without considering the case of the petitioner being similar to that of above two employees and rejected on the ground that the procedure for recruitment was not followed, however, all the procedures, roaster clearance etc. on the part of S.E. (Mech.) and C.E. (Mech.), R.C.D., Bihar during the period the petitioner was engaged, were followed, as such, the appointment can not be held to be illegal. The order of cancellaton of appointment by the State Government vide letter no.6255(S)WE dated 29.08.1998 and, thereafter, termination in the consequential letter no.1001 WE dated 24.09.1998 can be sustained.

6. *Per contra* learned counsel appearing on behalf of the respondents/State submitted that the writ petition is not maintainable because the petitioner was terminated from National Highway (Mechanical) Division, Hazaribagh, which is presently under the jurisdiction of Government of Jharkhand. A counter affidavit has also been filed on behalf of the respondent no.6 and information to that respect is contained in paragraph no.11 of the counter affidavit. On merit, it has also been informed that after verification by a three Men Committee, claim of the petitioner was rejected, vide order dated 20.11.2008



passed in Misc. Case No.1733 of 2007.

7. At this stage, learned counsel appearing on behalf of the petitioner has submitted with respect to the cadre division, in accordance with the provision of Bihar Re-organization Act, 2000, that a Committee has been constituted and the petitioner seeks to file a detail representation before the said Committee.

8. Considering the aforesaid submissions made on behalf of the petitioner, the petitioner, if so advised, may file a detail representation before the Committee, if any existing, in accordance with the provision of Bihar Re-organization Act, 2000 and the same will be considered by the appropriate authority in accordance with law.

9. With the above observation/direction, the present writ petition stands disposed of.

(Purnendu Singh, J)

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