

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13204 of 2012

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Suresh Kumar Sharma Son Of Late Chandra Bhushan Sharma Resident Of
Village- Sargetti, P.S.- Garkha, District- Saran At Chapra

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Road Construction Department, Government Of Bihar, Patna
3. The Principal Secretary, Finance Department, Government Of Bihar, Patna
4. The Engineer In Chief, Road Construction Department, Government Of Bihar, Patna
5. The Chief Engineer, Road Construction Department National Highway, Patna
6. The Superintending Engineer, National Highway Design And Quality Control Circle No. 1, Road Construction Department, Patna
7. The Commissioner, Patna Division, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Satish Chandra Jha-3, Advocate
		Mr. Shambhoo Kumar Suman, Advocate
For the Respondent/s	:	Mr. A.Ujjwal, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 06-05-2024

Heard Mr. Satish Chandra Jha-3, learned counsel
appearing on behalf of the petitioner and Mr. A. Ujjwal, learned
counsel for the respondent/s.

2. Learned counsel appearing on behalf of the
petitioner seeks to file detailed representation before the Chief
Engineer, Road Construction Department (National Highway)-
respondent no. 5 in light of *Amresh Kumar Sinha & Ors. v.*
The State of Bihar & Ors. SLP (C) Nos. 8219-8226 of 2016



and *Pramoda Nand Jha vs. The State of Bihar & Ors.* reported in *(2015) 1 PLJR 243*, considering the fact that first time bound promotion, which was granted to the petitioner in the year 1996 has been cancelled without any notice to the petitioner. The petitioner cannot be held responsible for any financial benefits, which have been granted to the petitioner on account of first time bound promotion due to alleged miscalculation on the part of the respondents themselves. There is no allegation of any misrepresentation or misappropriation to have been committed by the petitioner. It is well settled by the Apex Court in case of *Amresh Kumar Sinha (Supra)* that such rejection for the reason that petitioner has not passed the departmental examination will not desentitle him for the financial upgradation.

3. I find that the Order No. 18 dated 24.05.2012 (Annexure-1 to the writ petition) is not founded on the basis of the law laid down by this Court, as well as, by the Apex Court and also violates the principle of natural justice and is hereby quashed.

4. Considering the fact and the law laid down by the Apex Court in case of *Amresh Kumar Sinha (Supra)* and by this Court in *Pramoda Nand Jha (Supra)*, I direct the authority/respondent concerned to consider the grievance of the



petitioner.

5. In case they find that the the above judgments are not applicable in the case of petitioner, in that case, they must give reason and afford opportunity of hearing to the petitioner before denying the relief(s) as prayed for by the petitioner in the present writ petition within a period of six weeks from the date of filing of the representation.

6. If the relief(s) as prayed for in the present writ petition is allowed then in that case, petitioner is also entitled for consequential financial benefits till the date of his retirement and accordingly, pension is to be revised.

7. Accordingly, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

