

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13146 of 2012

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Sunil Kumar Son Of Shri Chakradhar Prasad Singh, Resident of P.W.D.
Colony, Mohalla- Maripur, P.O.- Bhagwanpur, District- Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Road Construction Department, Government of Bihar
2. The Secretary, Road Construction Department, Null Government of Bihar
3. The Engineer-In-Chief-Cum-Additional Commissioner-Cum-Special Secretary, Road Construction Department Government Of Bihar
4. The Special Secretary, Road Construction Department, Government Of Bihar
5. The Additional Secretary, Road Construction, Government Of Bihar
6. The Deputy Secretary, Road Construction Department, Government Of Bihar
7. Arun Kumar Mahto, Superintending, Rural Works Circle, Chapra, District- Chapra
8. Ram Sagar Choudhary, Superintending Engineer, Rural Works Circle, Gaya, District- Gaya
9. Satya Narain Mahto, Superintending Engineer, Building Construction Circle, Gaya, District- Gaya
10. Navin Kumar, Superintending Engineer, Building Construction Circle Darbhanga, District- Darbhanga
11. Ram Awdhesh Kumar, Superintending Engineer, National Highway Road Circle, Bhagalpur, District- Bhagalpur
12. Laxmi Narayan Paswan, Superintending Engineer, National Highway Road Circle, Dehri, District- Rohtas
13. Inderjit Kumar, Superintending Engineer, Additional Secretary To Minister, Rural Works Department, Vishveshvaraya Bhawan, Patna
14. Yodhan Chaudhary, Superintending Engineer, National Highway Road Circle, Purnia, District- Purnia

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Siddhartha Prasad, Advocate
For the Res. Nos.7, 10-13	:	Mr.Rupak Kumar, Advocate
For the State	:	Mr.Subodh Kumar, AC to SC 26

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH



ORAL ORDER

6 28-06-2024 Heard Mr. Siddhartha Prasad, learned counsel appearing on behalf of the petitioner, Mr. Rupak Kumar, learned counsel for Respondent nos. 7 and 10 to 13 and Mr. Subodh Kumar, learned AC to SC 26 for the Respondents/State.

2. The petitioner in paragraph no. 1 of the present writ petition has sought *inter alia* following relief(s), which is reproduced hereinafter : -

“That through the instant writ application the petitioner prays for issuance of appropriate writ(s)/direction(s) for quashing the order dated 24.01.2012 issued by the Secretary, Road Construction Department, Government of Bihar, whereunder representation filed by the petitioner pursuant to the order dated 22.09.2011 passed by this Hon’ble Court in CWJC No.11841/2011 for correction in the Seniority List of Superintending Engineer in the Road Construction Department has been rejected. The petitioner also prays for issuance of appropriate writ(s)/order(s)/direction(s) for making the necessary corrections in the gradation list of Superintending Engineers published by the Road Construction Department vide notification dated 17.08.2011. The petitioner further prays that the respondents may be restrained from giving promotions to the employees on the post of Chief Engineer and Engineer-in-Chief till the final adjudication of the present writ petition. The petitioner further prays for any other relief(s) that the petitioner is entitled.

3. The petitioner had earlier filed a representation for the same relief(s) by filing CWJC No.11841 of 2011, in



which this Court had granted liberty to the petitioner, vide order dated 22.09.2011 to file representation before the authority concerned for considering his grievance.

4. The record reveals that the grievance of the petitioner was considered. It was found that the petitioner has sought equality with Scheduled Castes candidates (respondent no.7 and 10 to 13) whereas the petitioner is Scheduled Tribe as such the same is against the principle of law of equality, which mandates equality amongst the equals. It is evident from the pleadings made in the counter affidavit filed in the present writ petition that the final gradation list has been prepared on 17.08.2011 on the basis of seniority list dated 04.04.2011. It has also been made clear in paragraph no.7 of counter affidavit filed on behalf of respondent nos. 1 and 2 in respect of the petitioner, who is a Scheduled Tribe candidate that his name has been kept in merit list dated 04.04.2011. Paragraph no.7 of the counter affidavit *inter alia* is reproduced hereinafter as follows :-

“7. That with respect to statement made in para 9 of the writ application it is stated that after publication of the seniority list dated 11.11.2005, objections were given/filed in the department for the correction of gradation list of 2005. The provisional civil list had been published vide notification no.5158(S) dated 09.04.2010



after obtaining the advice of Personnel and Administrative Reforms Department & Law Department. In paragraph (ii) of above provisional civil list it has been clearly described that - 'सीधी भर्ती वाले अभियंताओं की आपसी वरीयता का आधार नियुक्ति वर्ष में मेंधा क्रम को रखा गया है' According to above mentioned principle the name of petitioner had been placed in merit in the notification no.1 1299(S) dated 02.08.2010. Hence, the name of the petitioner has been placed in the seniority list notification dated 4.4.2011 in accordance with the civil list number. In the civil list notification dated 2.8.2010 petitioner's name has been placed at serial no.445 while the person who has promoted to the post of Chief Engineer has been placed at place no.423 against the cleared Schedule Tribe backlog vacancy."

5. Statement made in paragraph no.15 is also relevant in respect of the petitioner, which is re-produced hereinafter as follows : -

"15. That the statement made in para 31, 32 and 33 are not correct. The fact is that; in the light of the provisions laid down in the Bihar- Re-organization Act, 2000, after organization of the successor Bihar State, 16 % posts for Scheduled Caste & 01 % posts Scheduled Tribes have fixed according to Bihar Reservation of Vacancies in posts & Service (For Scheduled Caste, Scheduled Tribe and other Backward Classes) Amendment Act, 2002. After the bifurcation of Bihar Engineering Service cadre, the roster clearance of the available vacancies of Chief Engineer and Superintending Engineer had been obtained from then Department of Personnel & AR now known as General Administration Department in which one post was cleared



for Scheduled Tribe and no backlog vacancy existed. One ST Officer senior to the petitioner has been promoted to the post of Chief Engineer against the above said post. Hence, the petitioner is not entitled to be promoted to the post of Chief Engineer.”

6. In spite of above clarification made by the respondents, the petitioner has claimed that as per the seniority list he is at sl.no.528 in the list of the Executive Engineer and he is on 3rd position in his category i.e. Scheduled Tribe category and respondent nos. 7 to 14 are junior to the petitioner. The claim of the petitioner based on the said contention is not sustainable.

7. It is made clear that the record reveals that from the Scheduled Tribe Category one person, namely, Laxmi Narayan Das was placed at sl.no.426 and one vacancy has already arisen, however, in accordance with notification no.5158(S) dated 09.04.2010, the *enter se* seniority of the directly recruited Assistant Engineer is based on *inter se* position in the merit list prepared at the time of recruitment.

8. Considering the aforesaid facts and on the basis of the record, I do not find it necessary to interfere with the decision of the respondents in respect of the petitioner.



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

(Purnendu Singh, J)

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