

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11671 of 2024

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Dhanu Lal Rai alias Dhanulal Rai Son of Late Jai Govind Rai, resident of village - Turkaulia, P.S.- Chhapra Mufasil, District - Saran at Chhapra.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Bihar, Bailey Road, Patna.
2. Principal Secretary, Public Health Engineering Department, Bihar, Bailey Road, Patna.
3. The Superintending Engineer, PH Circle, PHED, Saran at Chhapra.
4. The Executive Engineer, PH Division, PHED, Saran at Chhapra.
5. Sri Sanjay Kumar Srivastava Son of Late Subash Prasad, resident of Village Dumhar, P.S. - Guthani, District - Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rananjay Kumar, Advocate

For the Respondent/s : Government Pleader 7

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 06-08-2024

Heard learned counsel appearing on behalf of the petitioner and the learned counsel for the 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 the petitioner beseeches indulgence of the Hon’ble High Court with a prayer for issuance of appropriate writ or writs in the nature of certiorari setting aside the office order contained in Office Order No.23 dated 30.05.2024 corresponding to memo No.294 dat. 30.05.2024 issued by the Superintending Engineer, PH Circle, Chhapra which is quite without application of mind, illogical, illegal, unreasonable and discriminatory violating Article 14 ad 16 of the Constitution of India apart from being contrary to factual position and the records of his office and this has been issued only to harass and to victimize the petitioner and further for



issuance of appropriate writ or writs in the nature of mandamus commanding the respondent authorities, particularly the Superintending Engineer, PH Circle, Public Health Engineering Department, Chhpara to grant promotion to the post of Clerk in Class III cadre from Class IV cadre for which he fulfills the criteria under relevant Rules, and this promotion may be directed to be given from the date when his junior, respondent no.05 has been granted i.e. dt. 12.12.2023 and denial of the same to this petitioner is arbitrary action on part of the respondent authorities and/or the Hon'ble Court may grant any other relief or reliefs as may be pleased in the facts and circumstances of the case."

3. Learned counsel appearing on behalf of the petitioner submitted that the petitioner was appointed on compassionate ground on the post of Peon on 14.11.1994, after the death of his father in harness. In the meantime, the petitioner had also completed his Intermediate course, for which he was to take examination held in the month of May, 1995. It is claimed by the petitioner that he had informed the appropriate authority in this regard by filing an application before the Superintending Engineer, PH Circle, Chhapra on 15.05.1995. The learned counsel has brought the said application on record by way of Annexure - '4' to show that he is Intermediate pass and also diploma holder in Computer Application.

4. The learned counsel has further submitted that the rejection of the petitioner for his promotion in Grade III cadre on the ground that he had not informed the department, while



he had appeared in Intermediate Examination held by the Bihar Intermediate Council is not in accordance with the law. As such, the authorities must re-consider the claim of the petitioner on the basis of the fact that an application had been filed by the petitioner on 15.05.1995 by which he had sought permission for taking Intermediate examination, which was held in the month of May, 1995.

5. The grievance of the petitioner is that though there is consideration of application of the petitioner dated 15.05.1995, the petitioner himself had not prayed before the concerned authority that he was a regular student of Intermediate for the Sessions 1993-95 and he came into the government service on 14.11.1994. In absence of any discussion in respect of the fact that the petitioner was already admitted in the Intermediate and, thereafter, for getting permission to appear in the examination, he had also filed application dated 15.05.1995 before the concerned authority. Learned counsel in these backgrounds seeks to file a detail representation before the Chief Engineer, North Region, Muzaffarpur to reconsider his case for due promotion.

6. Considering the aforesaid submissions made on behalf of the petitioner, as well as, the impugned order



contained in Annexure ‘P/11’ that the case of the petitioner was considered in the light of order dated 22.03.2024 passed in CWJC No.4465 of 2024 by which a Co-ordinate Bench of this Court had directed the Superintending Engineer, PH Circle, PHED, Saran at Chapra to dispose of the representation of the petitioner by a reasoned and speaking order in accordance with law within a period of six weeks, the Chief Engineer, North Region, Muzaffarpur is required to consider the application of the petitioner, who is still in government service and has claimed for promotion. The Chief Engineer must give his specific findings while considering the case of the petitioner. Insofar as the fact that the petitioner has pursued his Intermediate after he was appointed in government service can not be ground for rejecting his claim for promotion. The representation of the petitioner must be disposed of expeditiously.

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

(Purnendu Singh, J)

chn/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.08.2024
Transmission Date	NA

