

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14165 of 2024

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Santosh Kumar Son of Late Vidya Bhushan Singh Resident of Mohalla -
Lakhibagh, Police Station Gaya Muffasil, District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Public Health Engineering Department, Vishweshwariya Bhawan, Bailey Road, Patna.
2. Chief Engineer, Public Health Engineering Department, Government of Bihar, Patna Region, Patna.
3. Superintending Engineer, Public Health Engineering Circle, Public Health Engineering Department, Government of Bihar, Patna.
4. Executive Engineer, Public Health Engineering Division, Aurangabad.
5. General Administration Department, through its Additional Chief Secretary, Government of Bihar, Main Secretariat, Patna.
6. Manoj Kumar, Name of father not known to the petitioner presently posted as Orderly Peon / Parichari (Class IV, Category 'gha' post).
7. Ramraj Kumar, presently posted as Orderly Peon / Parichari (Class - IV, Category 'gha' post), Public Health Engineering Circle, Public Health Engineering Department, Government of Bihar, Sasaram.
8. Manish Kumar Sinha, name of father not known to the petitioner, presently posted as Orderly Peon / Parichari (Class IV. Category 'gha' post), Public Health Engineering Division, Public Health Engineering Department, Government of Bihar, Sasaram.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shashank Shekhar, Adv.
For the Respondent/s	:	Mr. Government Pleader 5

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 24-09-2024 By extraordinary Gazette Notification No. 19300,

dated 13th October, 2023, the State of Bihar promulgated a Rule

under the name and style of Temporary Officiating Working

Arrangement Rules, 2023. The said Rule was promulgated in

order to give officiating promotion to the eligible candidates,

who are not otherwise promoted by reason of pendency of cases



before this court or before the Supreme Court.

2. The petitioner is one of such employee in the Public Health Engineering Department, who according to gradation list was entitled to be promoted on officiating basis under the said Rule.

3. It is further submitted by the learned Advocate on behalf of the petitioner that Temporary Officiating Working Arrangement Rules, 2023, Rule 6 (vi) states:-

“(vi) अस्थायी स्थानापन्न व्यवस्था के अंतर्गत विहित वेतनमान सहित उच्चतर पद का प्रभार लोक सेवकों के सेवा अथवा कैडर में मूल कोटि की वरीयता के आधार पर दी जाएगी।”

4. The grievance of the petitioner is that his name is appearing in serial no. 19 in the gradation list, but he was not considered for promotion and the employees who were in 31, 35 and 44 place in the gradation list were promoted.

5. It is submitted by the learned Advocate for the petitioner that Rule 6 (vi) of the said Rule clearly states that officiating promotion shall be given only on the basis of seniority. But the respondents violated the said Rule without assigning any reason.

6. The respondent nos. 1 to 4 have filed counter affidavit denying all allegation made by the petitioner. It is



specifically contended by the contesting respondents that the name of the petitioner was duly considered by the Circle Level Screening Committee and he was not found suitable for promotion.

7. The Rule nowhere stated that the promotion shall be granted on the basis of seniority-cum-suitability. Therefore, denying of seniority, in case, when there is adverse record in respect of service of the petitioner, is apparently unfair and unjust.

8. In the light of the above observation, this Court directs the respondent nos. 1 to 4 to dispose of the representation filed by the petitioner on 16th February, 2024 by passing a reasoned and speaking order within 60 days from the date of communication of this order.

9. With the above direction, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

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