

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15181 of 2013

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Manoj Kumar Son of Sri Gauri Shankar Prasad, New Area, Patalpuri, Nawada, P.S. Nawada, in the District of Nawada Presently posted as - Executive Engineer (Mech.) Workshop, Mechanical Division, Road Construction Department, Khagaria, P.S. Khagaria, in the District of Khagaria

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Road Construction Department, Govt. of Bihar, Patna
2. The Secretary, Road Construction Department, Government of Bihar, Patna
3. The Joint Secretary, Road Construction Department, Government of Bihar, Patna
4. The Engineer - In - Chief - Cum - Special Secretary, Road Construction Department Government of Bihar, Patna
5. The Chief Engineer (Mechanical), Mechanical Wing, Road Construction Department, Government of Bihar, Patna
6. The Secretary, Department of Finance, Government of Bihar, Patna
7. The Assistant Secretary (Personal Entitlement Cell) Department of Finance, Govt. of Bihar, Patna
8. The Accountant General, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Deepak Kumar, Advocate Mr. Anil Singh, Advocate
For the State	:	Mr. Nalin Vilochan Tiwary, Advocate
For the A.G., Bihar	:	Mr. Sunil Kumar Singh, Advocate Mr. Ram Yash Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

Date : 08-12-2025

Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The petitioner has filed the instant application for quashing the reasoned order dated 13.6.2013 passed by the Secretary, Road Construction Department, Government of



Bihar, Patna whereby the representation filed by the petitioner pursuant to the direction contained in order dated 19.3.2013 passed in CWJC no.18529 of 2010 was rejected. The petitioner further prays for commanding the respondents to fix the pay of the petitioner as an Executive Engineer w.e.f. 30.9.2008.

3. The case of the petitioner in brief is that on the recommendation of the Bihar Public Service Commission (BPSC), the petitioner was appointed as an Assistant Engineer (Mechanical) in the Road Construction Department, Government of Bihar on 7.5.1997. He was subsequently promoted to the post of Executive Engineer on 6.8.2008 and subsequently by order dated 26.9.2008 was authorized to work as Incharge Executive Engineer (Mechanical) in Khagaria Sub Division in addition to his own work. The petitioner took charge as Executive Engineer (Mechanical) on 5.10.2008. Thereafter the respondents came out with an order contained in memo dated 15.10.2009 posting the petitioner on the post of Executive Engineer at Workshop Mechanical Division, Road Construction Department, Khagaria w.e.f. the date of his taking over charge.

4. The case of the petitioner is that he had already been posted in Khagaria on 30.9.2008 and his posting stood regularized on 15.10.2009. It was thus submitted that not having



been treated to have actually joined as regular incumbent w.e.f. the date he took charge on the basis of the order dated 16.9.2008, the petitioner moved this Court in CWJC no.18529 of 2010 for a direction to the respondents for pay fixation w.e.f. 1.1.2006 as an Assistant Engineer in P.B.3 (Rs.15,600-39,100) with Grade Pay of Rs.5400/ and as an Executive Engineer on 30.9.2008 in P.B.3 (Rs.15,600-39,100) with Grade Pay of Rs.6600/. The writ application was disposed of directing the petitioner to file a representation before the Secretary, Road Construction Department, Government of Bihar which was to be considered and decided by a speaking order within three months. The representation filed by the petitioner was rejected by order dated 17.6.2013 affirming the date of promotion of the petitioner as 15.10.2009 and not 30.9.2008. It is against this order that the petitioner has preferred the instant application.

5. Learned counsel for the petitioner submits that the respondents should have treated the order dated 26.9.2008 authorizing the petitioner to work as Incharge Executive Engineer (Mechanical) in Khagaria Sub Division and his consequent joining on 30.9.2008 as his actual date of joining for the reason that the same was subsequently regularized in case of the petitioner vide notification no.11559 (s) dated 15.10.2009.



6. The application is opposed by learned counsel appearing for the respondents. It is submitted that while granting additional charge to the petitioner on the post of Incharge Executive Engineer (Mechanical) Division Khagaria on 26.9.2008, the said order clearly mentioned that the same was conditional and temporary and would automatically loose force as and when regular posting of Executive Engineer is made. Thus with the regular posting of the petitioner vide departmental notification no.11559(s) dated 15.10.2009, the petitioner was rightly allowed the pay scale of the Executive Engineer (Mechanical) w.e.f. 15.10.2009. It is submitted that there is no merit in the instant application and the same be dismissed.

7. Heard learned counsel for the parties and perused the material on record.

8. The relevant facts in brief are that the petitioner filed CWJC no.18529 of 2010 for a direction to the respondents to issue revised pay slip of the petitioner after proper pay fixation w.e.f. 1.1.2006 as Assistant Engineer and w.e.f. 30.9.2008 as Executive Engineer.

9. On perusal of the records, it transpires that by notification contained in memo no.10347 dated 5.8.2008 (Annexure-3) issued on the orders of the Governor under the



signature of the Deputy Secretary, Road Construction Department, Bihar, Patna, the petitioner as also two others were granted promotion as Executive Engineer (Mechanical) in the pay scale of (Rs.10,000-325-15,200). The order further provided that the financial benefits of the post of Executive Engineer (Mechanical) would be payable from the date of taking over charge.

10. On perusal of the letter/application dated 6.8.2008 (Annexure-4) written by the petitioner to the Deputy Secretary, Road Construction Department, Bihar, it transpires that the petitioner gave his joining on 6.8.2008.

11. The respondents came out with an office order contained in memo no.12586 (s) dated 26.9.2008 giving the additional charge of Executive Engineer (Mechanical), Khagaria Division to the petitioner in addition to the work being performed by him. Pursuant to the same, the petitioner took charge at Khagaria vide charge report brought on record as Annexure-6 on 30.9.2008 and the same was counter signed by the Chief Engineer (Mechanical), R.C.D., Bihar on 5.10.2008.

12. So far as the posting at Khagaria Division is concerned, the respondents came out with a notification bearing no.11559 (s) dated 15.10.2009 posting the petitioner as



Executive Engineer in the Workshop Mechanical Division in Khagaria. On the petitioner having filed his representation pursuant to the order dated 19.3.2013 passed in CWJC no.18529 of 2010, the representation came to be rejected by order dated 17.6.2013 by the Secretary, R.C.D. on the ground that the additional charge which was given to the petitioner by order dated 26.9.2008, the same clearly provided that it would come to an end in the case of regular posting being made on the post of Executive Engineer (Mechanical).

13. So far as the petitioner is concerned, it cannot be the case of the respondents that it was only pursuant to the notification dated 15.10.2009 that the petitioner was given regular promotion as Executive Engineer (Mechanical). The petitioner had been given regular promotion as Executive Engineer (Mechanical) along with Surya Bhushan Prasad and Brajesh Kumar by notification contained in memo no.10347 dated 5.8.2008 (Annexure-3). The moment the petitioner was given an Incharge post of Executive Engineer by order dated 26.9.2008 wherein he joined on 30.9.2008, the petitioner already being a regularly promoted Executive Engineer had to be given the benefit of said post at least from 30.9.2008. By not giving the same and the respondents by the order impugned



dated 17.6.2013 having given the benefit of promotion as Executive Engineer (Mechanical) to the petitioner w.e.f. 15.10.2009 have clearly erred.

14. Thus, in view of the facts and circumstances of the case, the order impugned contained in memo no.4805 (s) dated 17.6.2013 issued under the signature of Secretary, R.C.D., Bihar and communicated under the signature of the Joint Secretary of the department cannot be sustained and is hereby set aside. The petitioner is held entitled for fixation of his salary as Executive Engineer (Mechanical) w.e.f. 30.9.2008.

15. The respondents are directed to fix the salary of the petitioner as an Executive Engineer with effect from 30.9.2008 and to pay the consequential benefits to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

16. The writ application stands allowed.

(Partha Sarthy, J)

Saurabh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	09.12.2025
Transmission Date	N/A

