

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.469 of 2022

In

Civil Writ Jurisdiction Case No.6089 of 2021

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1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
 2. The Principal Secretary, Finance Department, Govt. of Bihar, Patna.
 3. The Principal Secretary, Personnel Administrative Reforms, Govt. of Bihar, Patna.
 4. The Deputy Secretary, Water Resources Department, Govt. of Bihar.
 5. The Chief Engineer, Water Resources Department, Irrigation Division, Dehri on Sone, Rohtas.

... .. Appellant/s

Versus

1. Ambika Prasad Singh son of Late Ramashish Singh, Resident of Village-Gadhna, P.O.-Sanjholi, P.S.-Sanjholi, District-Rohtas.
2. Hridyanand Ram son of Late Ram Raj Rai, Resident and P.O.-Gunsej, P.S.-Dinara, District-Rohtas.
3. Vikrama Sah Son of Shri Jiyut Sah, Resident of Village-Varadih Pol, P.O.-Muradabad, P.S.-Sasaram, District-Rohtas.
4. Sri Bhagwan Sharma, son of Late Buchu Mistri, Resident of Village-Jainagar, P.S.-Sasaram, District-Rohtas.
5. Rabindra Nath Layak son of Gopal Layak, Resident of Village-Durri, P.O.-Karechata, P.S.-Eichagarh, District-Singhbhum (Jharkhand).
6. Mithilesh Prasad Singh, Son of Late Ram Chhabila Singh, Resident of Village-Wahasi Saidpur, P.O.-Kadilpur, P.S.-Gandha, District-Vaishali.
7. Sunil Kumar Sharma son of Late Parsuram Mistri, Resident of Village and P.O.-Nawadih, P.S.-Indrapuri, District-Rohtas (Sasaram).
8. Parmanand Singh, son of Late Gaya Singh, Resident of Village-Bishunbigha, P.O.-Akhari Gola, District-Rohtas.
9. Om Prakash, son of Late Laxman (Shahabadi) resident of Village-Shivganj, P.O.-Arrah, P.S.-Arrah, District-Bhojpur.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Kunal Tiwary (A.C. To G.A.2)
For the Respondent/s	:	Mr. Maya Shankar Mishra, Advocate
	:	Mr. Nagendra Upadhyay, Advocate
	:	Mr. Gopal Krishna Nishant, Advocate

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

and

HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA



ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA)

Date : 16-09-2025

Heard Mr. Kunal Tiwary, learned counsel for the appellants and Mr. Maya Shankar Mishra, learned counsel for the respondent (writ petitioners).

2. The present appeal is directed against the order dated 07.02.2022 passed in C.W.J.C No. 6089 of 2021 whereby the Hon'ble Single Judge has been pleased to allow the writ application and further the Hon'ble Court had directed the Appellant department to prepare a gradation list of Anurekhak for filling up of the next higher post of Neel Chitrak (Blue Printer).

3. Learned counsel for the appellants submits that the writ petitioners had filed a writ petition with a prayer for a direction to the respondent authority to grant them promotion on the next higher post i.e. Anurekhak after preparation of gradation list of Neel Chitrak (Blue Printer).

4. The respondents (writ petitioners) are working on the post of Blue Printer in the Appellant department. The next cadre promotional post of the higher post of the respondent (writ petitioners) is Anurekhak. From post of Blue Printer the next promotion will be given on the post of Anurekhak. Thereafter



the next cadre promotional post or next higher post is draftsman which would be fulfilled as per provisions of Water Resources Department Prarupkar Cadre (Joining and Service Condition) Rules 2014.

5. Learned counsel for the appellants submits that learned Single Judge had directed the respondent authority to prepare the gradation list of Anurekhak of the next higher post Neela Chitrak (Blue Printers) without considering the memo no. 8515 dated 08.12.2004 of the Finance Department, Government of Bihar Patna by which the Finance Department had taken a decision that in future the post of the Blue Printer and Anurekhak will not be filled up either through direct recruitment or through promotion as per recommendation of the fitment committee. Apart from aforesaid, Water Resources Department Prarupkar Cadre (Joining and Service Condition) Rules 2014 had already been published by the department of appellant. As per Clause 5(1) of the above mentioned Rules 2014, the 15% post are to be filled up on the post of Prarupkar from the post of Neel Chitrak (Blue Printer)/ Anurekhak as a promotion who possess the minimum qualification for the post of Prarupkar. As per clause 6 of the Water Resources Department Prarupkar Cadre (Joining and Service Condition) Rules 2014, the



gradation list will be prepared of those eligible Anurekhak/Blue Printer who possess the minimum qualification of Matric along with Diploma in Engineering of Draftsman or Diploma in Engineering in any trade. In the case of having equal qualification the preference will be given to that person who has Diploma in Engineering of Draftsman.

6. Learned counsel for the appellants further submits that it is admitted fact that the respondents herein who are writ petitioners in the writ petition are not eligible for promotion in terms of Water Resources Department Prarupkar Cadre (Joining and Service Condition) Rules 2014. Infact the writ petitioners cannot be promoted on the post of even Draftsman as they do not have the minimum qualification as per provisions of Water Resources Department Prarupkar Cadre (Joining and Service Condition) Rules 2014. For the better appreciation, Water Resources Department Prarupkar Cadre (Joining and Service Condition) Rules 2014 is quoted herein below:-

“(1) प्रारूपकार का 85% पद सीधी भर्ती से भरे जायेंगे और 15% पद अनुरेखक/नीलचित्रक कर्मी जो प्रारूपकार के पद पर नियुक्ति की अर्हता रखते हों से, बिना किसी परीक्षा के वरीयता क्रम में भरे जायेंगे। सीधी भर्ती के 85% पदों में से 10% तक पद अनुकम्पा के आधार पर नियुक्ति के लिए आरक्षित रहेंगे।



(2) सभी भर्तियाँ आयोग की अनुशंसा पर
प्रारूपकार संवर्ग की मूल कोटि में की जायेगी।"

7. Learned counsel for the appellants further submits that the writ court had held that the respondents are otherwise eligible. Infact the respondents are not eligible in terms of Water Resources Department Prarupkar Cadre (Joining and Service Condition) Rules 2014.

8. Learned counsel for the respondents (writ petitioners) submits that after due consideration the writ court had directed the department to consider the case of the appellants but fairly submits that the respondents (writ petitioners) does not fulfill the condition as stipulated in Water Resources Department Prarupkar Cadre (Joining and Service Condition) Rules 2014.

9. The grievance of the petitioner is relating to preparation of a gradation list of a post so as to fill up the next higher post by the process of promotion. Such incidents in service is guided by the service rules or in absence thereof, the relevant resolutions or notification of circulars of the administrative department.

10. In the present case, the direction issued by the learned Single Judge is in *de-hors* of the service rules, therefore having no legal sanction. It is well established that any such decision relating to grant of service benefits to an employee, which is not



prescribed under the rule rather to be inconsistent, requires interference. The promotion in service is not a vested right of an employee, rather it is subject to the promotion rules and fulfilling the essential qualification and eligibility criteria.

11. Therefore, we are of considered opinion that order dated 07.02.2022 passed in C.W.J.C No. 6089 of 2021 is passed without consideration of Water Resources Department Prarupkar Cadre (Joining and Service Condition) Rules 2014 and apart from the aforesaid, the respondents (writ petitioners) does not fulfill the condition as stipulated in the aforesaid rule.

12. In view of the aforesaid, the order dated 07.02.2022 passed in C.W.J.C No. 6089 of 2021 is set aside and Letters Patent Appeal is allowed.

(Sudhir Singh, J)

(Rajesh Kumar Verma, J)

Suruchi/-

AFR/NAFR	NAFR
CAV DATE	NA
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