

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 16992 of 2024

1. Sunil Kumar Son of Shri Ghurusharan Prasad Sinha, resident of Navaratanpur, Near Mandir, P.O. - G.P.O., P.S. Kankarbagh, District- Patna, Pin Code - 800001.
2. Anil Kumar Singh, Son of Shri R.N. Kumar, resident of Ward No. 13, Village - Dilawarpur, P.O. - Dilawarpur, P.S. - Kesaria, Mehsi, District- East Champaran, Pin Code- 845426
3. Anjani Kumar Pathak, Son of Shri Dhruv Pathak, resident of House No. L-18, Ashiyana Nagar Jagat Vihar Colony, P.O. - Aashiana Nagar, P.S. - Rajiv Nagar, District - Patna, Pin Code - 800025.
4. Shree Pankaj, Son of Late Muralidhar Pathak, resident of In front of NTPC Apartment, Phase- 01, P.O. - Aashiana Nagar, P.S. - Rajiv Nagar, District - Patna, Pin Code - 800025.
5. Satish Kumar, Son of Late Rabindra Lal Karna, resident of Sisauni, Ward No. 08, P.O. - Sisauni, P.S. - Basopatti, District- Madhubani, Pin Code- 847225.
6. Suman Kumar Sinha, Son of Shri Tarkeshwar Prasad, resident of Magadh Colony Bari Pahari, P.O. - Saraia, P.S. - Sohsarai, District- Nalanda, Pin Code- 803118.
7. Pramod Bharti, Son of Shri Jagdish Prasad, resident of Itasan, P.O. and P.S. - Bhadwa, District- Nalanda, Pin Code- 803119.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
2. The Secretary, Transport Department, Government of Bihar, Patna.
3. State Transport Commissioner, Transport Department, Government of Bihar, Patna.

... .. Respondent/s

WITH

Civil Writ Jurisdiction Case No 1512 of 2025

1. Hareram Kumar Son of Choudhary Mahto, Resident of Mohalla- New Karbigahia, P.O.- G.P.O., P.S.- Jakkanpur, District- Patna.
2. Basant Kumar, Son of Umesh Prasad, Resident of Rajnagar Atal Colony, Near PGS School, P.s.- Khagaul, District- Patna.
3. Santosh Kumar, Son of Sohan Sah Resident of Village- Baikatpur, P.S.- Mushahari, District- Muzaffarpur.
4. Shiv Kumar, Son of Rati Lal Kamat, Resident of Village- Sudai Ratauli, P.S.- Phulparas, District- Madhubani.



- 5. Sandeep Kumar, Son of Indra Chandra Prasad, Resident of A.G Colony, L.B.S. Nagar, P.S.- Shastrinagar, District- Patna.
- 6. Amit Kumar Gupta, Son of Krishna Gupta, Resident of Awadhपुरi Colony, Road No. 4, Chandwa More, P.S.- Nawada (Arrah), District- Bhojpur.
- 7. Chetanaya Navinam, Son of Ramdeo Pandit, Resident of Village- Khutia, P.S.- Mansi, District-Khagaria.
- 8. Pawan Kumar, Son of Bhuneshwar Paswan, Resident of Village- Chakandra, P.S.- Chewara, District- Sheikhpura.
- 9. Ashok Kumar Paswan, Son of Bindhyanchal Paswan, Resident of Jagjeevan Nagar, P.S.- Bettiah Town, District- West Champaran, Bettiah.
- 10. Manoj Kumar Ranjan, Son of Ram Nath Ram, Resident of Village- Mubarakpur, P.S.- Shahpur, District- Patna.
- 11. Binod Kumar, Son of Sheo Bachan Ram, Resident of H. No. 73, Mahuet, Ghariya, P.S.-Wazirganj, District- Gaya.
- 12. Anish Kumar, Son of Late Rajendra Das, Resident of Village- Itawan, P.O.- Mubarakpur, P.S.-Barh, District- Patna.
- 13. Rajeev Kumar, Son of Bal Swarup Paswan, Resident of Quarter No. 2-003, Street-5, Sector-2/C, Bokaro Steel City, P.S. City, District- Bokaro (Jharkhand).
- 14. Manoj Kumar, Son of Kishuni Ram, Resident of Village- Madhepura, Amma, P.S.-Hathouri, District- Muzaffarpur.
- 15. Vibha Kumari, Wife of Sanjay Kumar Resident of Village- Sandalpur, P.S.- Kasim Bazar, District- Munger, Bihar.

... .. Petitioner/s

Versus

- 1. The State of Bihar through the Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
- 2. The Secretary, Department of Transport, Govt. of Bihar, Patna.
- 3. The Transport Commissioner, Transport Department, Govt. of Bihar, Patna.
- 4. The Joint Secretary, Transport Department, Govt. of Bihar, Patna.
- 5. The Deputy Secretary, Transport Department, Govt. of Bihar, Patna.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No 16992 of 2024)

For the Petitioner/s : Mr Abhinav Srivastava, Sr Advocate with
M/s Shreyashi Raj, Pushkar Bharadwaj,
Govind Raj Shahi, Advocates

For the Respondent/s : Mr.Standing Counsel 06

(In Civil Writ Jurisdiction Case No 1512 of 2025)

For the Petitioner/s : Mr Shakti Suman Kumar, Advocate

For the Respondent/s : Dr Md Raisul Haque, Standing Counsel X

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CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

CAV JUDGMENT

Date : 17-06-2025

Since in both the writ petitions, common issues are involved, therefore, both these petitions are being decided by this common order.

2 In both the petitions, all the petitioners herein are claiming their promotion against the post of Additional District Transport Officer (for brevity, *ADTO*) in terms of the provisions contained in Rule 8 (ii) (b) of the Bihar Transport Service Rules, 2020 (for brevity, *the 2020 Rules*).

3 Brief facts of the case are that the Bihar Transport (Enforcement) Cadre Rules, 2003 (for brevity, *the 2003 Rules*) were formulated to govern the Recruitment, Promotion and Service Conditions of Personnel in the Transport (Enforcement) Branch of Bihar. Rule 3 of the 2003 Rules laid down the provisions with respect to the constitution of the cadre, according to which the said cadre comprised of altogether 3 posts, i e, the posts of Enforcement Sub-Inspector which is entry level post, the Enforcement Inspector and the Enforcement Officer which are the promotional posts.



4 Pursuant to the advertisement issued by the Bihar Staff Selection Commission dated 18.12.2004, all the petitioners of these petitions were appointed on the post of Enforcement Sub Inspector. Meanwhile, the Transport Department notified the 2020 Rules through a Notification dated 29.01.2020. As per Rule 8 of the 2020 Rules, 50% of the basic grade posts of ADTO shall be filled up by direct recruitment on the basis of recommendation made by the BPSC while remaining 50% of the basic grade posts were earmarked for promotion from Bihar Transport (Enforcement) Cadre and the Bihar Transport (Technical) Cadre. Rule 8 (ii) (b) of the 2020 Rules further provides that 40% from the said promotional posts shall be filled up from the Bihar Transport (Enforcement) Cadre. Further, as per Rule 8 (iii) of the 2020 Rules, promotions to the posts within the Bihar Transport Service are to be granted from the immediate next lower level posts, based on the principles of seniority-cum-merit as recommended by the Departmental Promotion Committee.

5 Pursuant to the advertisement issued by the Bihar Public Service Commission on 16.09.2020 for the 66th Combined Competitive Examination, 30 posts of ADTO were filled up by direct recruitment. As per Rule 8 (ii), the remaining 30 posts were to be filled through promotion in the proportionate of 60% from



the cadre of Bihar Transport (Technical) and 40% from the Bihar Transport (Enforcement Wing). Meanwhile, a Notification dated 13.10.2023 (Annexure P/5 to the writ petition bearing CWJC No 16992 of 2024) was issued by the respondents by which the Temporary Ad hoc Officiating Rules, 2023 (for brevity, ***the 2023 Rules***) were notified laying down provisions for considering the cases of State Government employees for giving them the charge against promotional posts on purely temporary ad hoc working arrangement basis as promotion against such post could not be granted to them on a regular basis on account of the order having been passed by the Supreme Court in Civil Appeal No 4880 of 2017. Thereafter, in the light of the 2023 Rules, vide office order dated 26.06.2024 bearing Memo No 8563, the respondents promoted 18 Enforcement Sub Inspectors against the post of Enforcement Inspector in pay level 7. The petitioners in CWJC No 16992 of 2024 were included in those 18 persons who have been promoted. In accordance with Rule 8 (ii) (a) of 2020 Rules, 60% quota in promotional post, i e, 22 posts of ADTO and equivalent posts are available to the technical cadre and remaining 40% posts, i e, 14 posts of ADTO and equivalent posts are available to the Enforcement Cadre. The petitioners of CWJC No 1512 of 2025 are claiming their promotions to the post of ADTO



on the ground that they are working as Enforcement Sub-Inspector which is level 6 post and lower to the post of ADTO, i e, level 7 post. The petitioners of CWJC No 16992 of 2024 are also claiming their promotion to the post of ADTO on the ground that they fulfill the requirement of prescribed qualification under Rule 6 (x) of 2023 Rules read with the provisions contained in Rule 8 (ii) (b) of the 2020 Rules.

6 Learned counsel appearing for the petitioners in CWJC No 16992 of 2024 submits that the petitioners in this petition fulfills the requirements prescribed under Rule 6 (x) of the 2023 Rules and were clearly entitled for being given the charge against the post which is one level above the level which was the next post against which they were working and in this manner, they become entitled for being given the charge against the post of ADTO but the respondents vide office order dated 26.06.2024 (Annexure P/8) were wrongly given the charge of Enforcement Inspector in pay level 7 in terms of 2023 Rules instead of being given the charge against the post of ADTO. The persons, who were working against the post of motor vehicle inspector as members of Bihar Transport (Technical) Cadre were given the charge against the post of ADTO. Therefore, the petitioners in CWJC No 16992 of 2024 are also entitled to get charge against the



post of ADTO instead of the post of Enforcement Inspector. He further submits that the post of ADTO is a gazetted post whereas the post of Enforcement Inspector is not a gazetted post though there is no financial loss suffered by the petitioners but there is clearly a loss of status and rank. Therefore, the petitioners, in this petition, are entitled to get the charge of ADTO.

7 Learned counsel appearing for the petitioners in CWJC No 1512 of 2025 submits that since all the petitioners in this writ petition as well as petitioners in CWJC No 16992 of 2024 were working as Enforcement Sub-Inspector, which is level 6 post, and subsequently the petitioners of CWJC No 16992 of 2024 have already been given the charge against the post of Enforcement Inspector, i e, level 7 post, therefore, they have already been granted the benefit of promotion under the provisions of 2023 Rules. Since both the posts, i e, Enforcement Inspector and ADTO are the equivalent and level 7 post, therefore, the petitioners herein only are entitled to get promotion to the post of ADTO as it is a just higher post against which they are working.

8 Learned counsel for the respondents submits that taking into consideration the claim of the petitioners in both these petitions, the Departmental Screening Committee in its meeting dated 02.01.2025 decided to seek opinion from the GAD on the



aforesaid issue. The GAD sent its opinion and, accordingly, the Transport Department shall take further action in accordance with law in the aforesaid manner.

9 I have heard learned counsel appearing for both the sides. Perused the documents annexed with the petition, counter affidavit as well as rejoinder to the counter affidavit.

10 Undisputedly, all the petitioners in both the petitions were appointed to the post of Enforcement Sub Inspector pursuant to the advertisement dated 18.12.2004. it is also not in dispute on the point that the post of Enforcement Inspector is level 7 post in terms of 2023 Rules. The Enforcement Inspector (level 7) and the Enforcement Officer (level 8) are the promotional post. There is also no dispute on the point that the post of ADTO for which all the petitioners in both the petitions are claiming for is the post of level 7 meaning thereby the post of Enforcement Inspector and the post of ADTO both are the level 7 post, i e, equivalent posts. Opinion of the GAD has been annexed by the petitioners in CWJC No 1512 of 2025 (Annexure P/11). As opined by the GAD, both the posts of ADTO and the Enforcement Inspector are level 7 post and they should be treated as equivalent. In Clauses 7 and 8 of the opinion (Annexure P/11), it is further opined that the post of



Enforcement Sub Inspector is a level 6 post and, therefore, it should be treated just below the post of ADTO.

11 As per Rule 8 (iii) of the 2023 Rules, the promotion was given to the post of ADTO from the post which is just below, i.e., level 6 post. The petitioners of CWJC No 1512 of 2025 are working as Enforcement Sub-Inspector, i.e., level 6 post and the petitioners of CWJC No 16992 of 2024 are working as Enforcement Inspector, i.e., level 7 post. Therefore, the petitioners of CWJC No 1512 of 2025 are entitled to get the charge of the post of ADTO in the light of 2023 Rules.

12 So far as the petitioners of CWJC No 16992 of 2024 are concerned, they have already been promoted to the level 7 post, i.e., Enforcement Inspector which is equivalent to the post of ADTO. Further, they have already been given the charge of promotional post, i.e., the post of Enforcement Inspector in level 7 on 26.06.2024 which has already been accepted by them without any protest and they are working as Enforcement Inspector and, as opined by the GAD, as they have not completed one year on that post, therefore, they are not entitled to get any charge of the post of ADTO.

13 Resultantly, considering the above, the petition filed by the petitioners of CWJC No 1512 of 2025 is allowed. The



petition preferred by the petitioners through CWJC No 16992 of 2024 is hereby dismissed, having no merit.

14 The petitioners of CWJC No 1512 of 2025 will be given the charge of ADTO as per the provisions of the 2023 Rules under their limit of 40% post of ADTO available to them, as contained in Rule 8 (ii) (b) of the 2020 Rules, according to their seniority-cum-merit.

15 The above exercise will be done as early as possible preferably within a period of 45 days from the date of receipt of a copy of this order.

(Arvind Singh Chandel, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	08.05.2025
Uploading Date	17.06.2025
Transmission Date	NA

