

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2043 of 2017

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Harendra Kumar Upadhyay S/o Sri Vasudeo Upadhyay R/o Flat no. 3A/Gujarmal Bali Raj Apartment Road no. 1, South Shivpuri, Patna, P.S. Shastrinagar, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Secretary, Road Construction Department, Government of Bihar, Patna.
4. The Special Secretary, Road Construction Department, Government of Bihar, Patna.
5. The Engineer in Chief R.C.D., Government of Bihar, Patna.
6. Reji Singh, Assistant Engineer, Bridge Design Circle, Central Design Office, Patna.
7. Ram Mohan Singh, Assistant Engineer, Rajya Pul Nirman Nigham, Patna.
8. Sri Om Prakash, Assistant Engineer, Road Construction Department, Govt. of Bihar, Patna.
9. Dipesh Kumar, Assistant Engineer, Bihar Rajya Pul Nirman Nighan, Patna.
10. Ajay Prakash, Assistant Engineer, Bihar Rajya Pul Nirman Nigham, Patna.
11. Ram Bilash Yadav, Assistant Engineer, Bihar Rajya Pul Nirman Nigham, Patna.
12. Ram Kumar Yadav, Assistant Engineer, Bihar Rajya Pul Nirman Nigham, Patna.
13. Mridula Sinha, Assistant Engineer, Road Construction Department, Govt. of Bihar, Patna.
14. Sadhu Saran, Assistant Engineer, Road Construction Department, Govt. of Bihar, Patna.
15. Sunil Kumar Choudhary, Assistant Engineer, Mahatma Gandhi Setu Pramandal, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Purushottam Kr. Jha, Advocate Mr. Mithilesh Kumar Upadhyay, Advocate Mr. Vijay Shankar Upadhyay, Advocate Mr. Bishwash Vijeta, Advocate
For the Respondent/s	:	Mr. Ramashray Roy, AC to AAG-11

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

7 19-01-2026

Heard learned counsel for the petitioner and learned



counsel for the respondents.

2. The petitioner has filed the instant application for the following relief(s) :

“1. That this writ application is being filed for setting aside the resolution dated 04.02.2015 passed by the committee headed by Secretary, Road Construction Department, Govt. of Bihar, Patna as well as for direction to the authorities to give equal treatment to the petitioner which are being given to the other engineers of Road Construction Department since the date they have been given such benefit and/or for any other order or orders may be passed in the fact and circumstances of the case.”

3. Subsequently the petitioner filed I.A. no.1 of 2021 praying for addition of some reliefs as stated in paragraph no.1 of the application, which are reproduced herein below :-

“i. Issuance of an order, direction or a writ in the nature of certiorari quashing the Notification No. 1 / स्था० 19/2007 2777 (S) dated 25.03.2015 issued by the Additional Secretary, Road Construction Department, Govt. of Bihar, Patna (Respondent No. 4) whereby petitioner's claim for the allocation of his services to the Road Construction Department has been rejected in the following terms:-

"CWJC No. 21428/2013 श्री

मधुसूदन साह एवं अन्य बनाम बिहार राज्य एवं अन्य में दिनांक 19.02.2014 को पारित



न्यायादेश के क्रम में अवमाननावाद संख्या 2895/2014 दायर है। जिसमें कुल 8 (आठ) याचिकाकर्ताओं में से वर्तमान में सर्वश्री मधुसूदन साह (स० अ०) हरेन्द्र कुमार उपाध्याय (स० अ०), अजय कुमार (स० अ०), विनोद बिहारी शर्मा (स० अ०), बीरेंद्र कुमार (स० अ०) एवं राजेश कुमार (स० अ०) ग्रामीण कार्य विभाग संवर्ग के आशतोष (स० अ०) एवं त्रिदीप कुमार मिश्रा (स० अ०) भवन निर्माण विभाग संवर्ग के हैं।

(i) श्री मधुसूदन साह (स० अ०) (ii) श्री हरेन्द्र कुमार उपाध्याय (स० अ०), (iii) श्री अजय कुमार (स० अ०), (iv) श्री बिरेंद्र कुमार (स० अ०) एवं (v) श्री राजेश कुमार (स० अ०) द्वारा अपना विकल्प पथ निर्माण विभाग दिया गया है। विभागीय संकल्प संख्या 6115 (एस०) दिनांक 29.07.2013 के कंडिका 5 (क) के आलोक में इन आवेदनों को अस्वीकृत किया जाता है। "

A true copy of Notification No. 1/स्था० -19/2007 2777 (S) dated 25.03.2015 is annexed herewith as Annexure-14 to this Interlocutory Application.

ii. Issuance of an order, direction or a writ in the nature of mandamus commanding the Respondents concerned to shift back the effective date of promotion to the petitioner on the post of Executive Engineer from 19.01.2018 to 24.10.2016, the day persons junior to the petitioner namely Mr. Santosh Kumar Bhatt, Mr.



Nikhilesh Kumar Sinha, Mr. Nasim Akthar Ansari, Mr. Arun Kumar Singh, Mr. Ghanshyam Mandal, Mr. Prem Nath, Syed Mumtaz Ahmad, Md. Rehan Haider and Mr. Ram Suresh Rai have been granted promotion on the post of Executive Engineer, vide Annexure - 11 at page nos. 77-78 to the main writ petition. And in turn the Respondents concerned may be suitably directed to grant all due benefits to the petitioner on the basis of the shifting back the date of his promotion on the post of Executive Engineer from 19.01.2018 to 24.10.2016.

iii. To hold and declare that since there have been no difference in between the case of the petitioner and the case of Reji Singh (Respondent No. 6), as such, the petitioner may also be granted identical and similar benefits as has been granted to said Respondent No. 6 in the matter of allocation of cadre to the Road Construction Department.

iv. For grant of any other additional relief (s) to which the petitioner may be found entitled to in the facts and circumstances of this case.”

4. It is fairly submitted by learned counsel for the petitioner that during pendency of the instant application, the petitioner having retired on 31.5.2024, so far as the additional relief (i) is concerned, the same being with respect to transfer and posting, it has become infructuous and as such he does not press the same.



5. So far as additional relief (ii) and (iii) made in I.A. no.1 of 2021 is concerned, the petitioner shall file a representation before the Secretary, Road Construction Department, Government of Bihar (respondent no.3) within a period of four weeks.

6. In case such a representation is filed, the respondent no.3 shall decide the same within a period of two months from the date of its filing and pay the consequential benefits arising out of the said order within the aforesaid period.

7. In case the representation of the petitioner does not find favour with the respondent, a reasoned order for the same shall be communicated to the petitioner within the same period.

8. The petitioner shall be at liberty to raise all the points raised herein as also otherwise available to the petitioner before the respondent concerned.

9. The writ application stands disposed of with the above observation and direction.

(Partha Sarthy, J)

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