IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No.6040 of 2026

1. Bimal Kishore Singh, aged about 38 years, S/o Ramesh Chandra Singh, resident of C-12, Topa Colony, Kuju Area, P.O. and P.S.-Mandu, District- Ramgarh.

2. Kamal Kishore, aged about 40 years, S/o Ramesh Chandra Singh, resident of Siyaldih Colliery, Patratu, P.O. & P.S.-Patratu, District-Ramgarh. **... … Petitioner**

Versus

1. The State of Jharkhand through the Chief Secretary, Government of Jharkhand, having its office at Project Bhawan, Dhurwa, P.O. & P.S.-Dhurwa, District-Ranchi.

2. The Principal Secretary, Water Resources Department, Government of Jharkhand, having its office at Nepal House, Doranda, P.O. & P.S.-Doranda, District-Ranchi.

3. The Deputy Secretary, Water Resources Department, Government of Jharkhand, having its office at Nepal House, Doranda, P.O. & P.S.-Doranda, District-Ranchi.

4. The Under Secretary to Government, Water Resources Department, Government of Jharkhand, having its office at Nepal House, P.O. & P.S.- Doranda, Town & District- Ranchi.

5. The Engineer-in-Chief, Water Resources Department, Government of Jharkhand, having its office at Nepal House, Doranda, P.O & P.S. Doranda, District-Ranchi. **... … Respondent(s)**

…….

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner(s) : Mr. Sidharth Ranjan, Adv.
: Mrs. Neha Bhardwaj, Adv.
For the Respondent(s) : Mr. Varun Prabhakar, AC to GP-III

Order No. 6 /04.11.2026

The instant writ application has been preferred by the

petitioners for the following relief:-

> *i) To quash and set aside the reasoned order contained in Memo No. 234 dated -19.01.2026 (Annexure-10) passed by the Under Secretary, Water Resources Department, Government of Jharkhand (Respondent No. 4) whereby and whereunder the claim of the petitioner for promotion with effect from the year, 2012 has been rejected.*
>
> *(ii) To direct the respondents to grant promotion to the petitioners on the post of Assistant Engineer (Mechanical) in the Department of Water Resources, Government of Jharkhand.*
>
> *(iii) To consider the seniority of the petitioners over and above the 2013 direct appointees Assistant Engineer (Mechanical) in the Department of Water Resources, Government of Jharkhand.*
>
> *(iv) To grant promotion to the 2013 appointees Assistant Engineer (Mechanical) to the post of Executive Engineer (Mechanical) after granting the promotion to the petitioners on the post of Assistant Engineer (Mechanical) w.e.f. November, 2012 as the petitioners are entitled to be promoted on the post of Assistant Engineer (Mechanical) w.e.f. November, 2012.*

2. At the outset, learned counsel for the petitioners submits that the issue involved in this writ application is same and similar with that of W.P.(S) No.2835 of 2026, as such similar benefit may be granted to these petitioners.

3. Learned counsel for the respondent fairly admits the aforesaid contention and submits that the instant writ application may be disposed of in the line of W.P.(S) No. 2835 of 2026.

4. Having regard to the limited submission that the issue in the instant case is same and similar with that of W.P.(S) 2835 of 2026, wherein this Court has held as under:-

> ***"19.*** *In view of the facts of the present case, this Court is of the considered view that the writ petition deserves to be allowed for the following facts and reasons: -*

(a) *The first ground on which the case of the petitioners has been rejected is that there was a CBI enquiry pending. It appears that some preliminary enquiry (PE) must be pending against the petitioners with the CBI. But nothing has been brought on record by the respondents that any charge sheet was submitted against the petitioners.*

In fact, it appears that there was no F.I.R. lodged against the petitioners, as was submitted by the learned Counsel for the petitioners.

In view of the fact that there was no F.I.R. coupled with the fact that there was no charge sheet at all submitted against the petitioners in the criminal case, the case of the petitioners cannot be rejected on this count. Further, there is nothing on record that there was any memo of charge framed to initiate a departmental proceeding against the petitioners.

It has rightly been pointed out by Ld. Counsel appearing for the petitioners that in the year 2008 itself, Government of Jharkhand issued a Resolution/Circular dated 20.11.2008 (Annexure-12 of the writ petition) whereby the promotion of an employee could be withheld only in a case where (i) an employee is put under suspension, (ii) if charge has been framed in a departmental proceeding; and (iii) if a criminal case has been lodged in which charge sheet has been submitted. This circular is too clear on this point. In view of this Circular, the case of the petitioners could not have been rejected by the respondent concerned.

(b) *The case of the petitioners has been rejected also on the ground that Jharkhand Engineering Service Appointment Rules, 2016 was notified on 12.04.2016 as per which the petitioners were not entitled for such promotion.*

This ground is also fallacious in view of the fact that no Rule could be given retrospective effect. In fact, this Rule was never issued with retrospective effect. The promotion of the petitioners to the post of Assistant Engineers was due on 20.11.2012 itself. On 20.11.2012 this 2016 Rules was not in effect. Therefore, the claim of the petitioners cannot be rejected on the ground of a Rule which was framed after 4 years from the date the petitioners were entitled to as per their seniority and the vacancy position. Rejection of the promotion of the petitioners on this ground is absolutely arbitrary.

(c) *Reference has also been made to Rule 58 of Jharkhand Service Code and Rule 74 of the Jharkhand Finance Rules to reject the claim.*

In this context, this Court holds that these Rules cannot be an impediment to grant promotion to an employee who was entitled to promotion but the delay was caused at the hands of the respondents. It is well settled a law that if the delay is caused on the part of the respondents, the Court under Article 226 is not powerless to direct the respondents to grant promotion with retrospective effect.

The Division Bench of Patna High Court in the case of ***Dr. Parasnath Prasad Vs. The State of Bihar, reported in 1990 (2) PLJR 248*** *held that if the person who is entitled to promotion, but not promoted, is entitled to invoke writ jurisdiction. Rule 58 of Bihar (now Jharkhand) Service Code was specifically dealt with in paragraph no.19. It was further held that withholding promotion and denying other benefits was nothing but grave injustice to the employee. In fact, the Division Bench compensated by directing payment of interest @15% compoundable per annum on the benefits (salary and other allowances) to which the petitioner was entitled.*

This Division Bench judgement in the case of Dr. Parasnath Prasad (supra) has been followed in the case of ***Satyendra Tiwari Vs. State of Jharkhand****, reported in* ***2021 (2) JLJR 195*** *by a Coordinate Bench of this Court and the same was upheld in L.P.A. No.274 of 2021, decided on 26.04.2022.*

There are several judgments on this point including ***Satya Dev Prasad Vs. State of Jharkhand****, reported in* ***2010 (3) JLJR 238 (Jhar)****,* ***2000 (1) PLJR 768*** *which was followed by a Coordinate Bench of this Court in the case of* ***Gauri Shankar Mishra Vs. State of Jharkhand****, decided on 13.11.2017 and the same was upheld in* ***L.P.A. No.264 of 2018,*** *decided on 11.12.2023.*

Therefore, this Court holds that Rule 58 of Jharkhand Service Code and Rule 74 of Jharkhand Finance Rule will not be an impediment in the case of the petitioners as there is no fault on the part of the petitioners and the matter was delayed for no reason by the respondents only.

(d) *The respondents have not denied that these petitioners were entitled for promotion in the month of November, 2012. The grounds taken to reject the claim of the petitioners are nothing but lame excuses. It is well neigh settled that right of consideration of an employee for promotion is a fundamental right. The fundamental right of the petitioners for consideration in the month of November, 2012 was violated by the respondents in the present case. All the grounds as stated above, do not come in the way of the petitioners for promotion from due date.*

20. *In view of what has been held above, the impugned decision in the shape of reasoned order dated 19.01.2026 (Annexure-11), is hereby, quashed and set aside.*

21. *The respondents are accordingly directed to promote the petitioners from post of Junior Engineers (Mechanical) to the post of*

Assistant Engineers (Mechanical) with effect from 20.11.2012 with all consequential benefits.

22. *Consequently, after granting the promotion to the petitioners from 20.11.2012, their cases are also required to be considered for promotion to the post of Executive Engineers with effect from the date the petitioners complete the Kalawadhi, as per applicable Rules.*

23. *Formal order to the aforesaid effect be issued within a period of 12 weeks from the date of receipt/production of a copy of this order.*

24. *Accordingly, the instant writ application stands allowed. Pending I.A., if any, also stands disposed of."*

5. In view of the admitted position, the reasoned order contained in Memo No.234 dated 19.01.2026 (Annexure-10) being *non-est* in the eye of law; accordingly, the same is hereby quashed and set aside.

6. Accordingly, the respondents are directed to extend the same benefits to the petitioners as were granted to the similarly situated petitioners vide order dated 02.11.2026 passed in W.P.(S) No. 2835 of 2026, within a period of 12 weeks from the date of receipt or production of a copy of this order.

7. Having regard to the above, the instant writ application is hereby allowed. Pending I.A., if any, also stands closed.

(Deepak Roshan, J.)

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