

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 87 of 2024

1. Radha Raman Tiwary
2. Sunil Kumar Sinha
3. Anil Kumar Singh Petitioners

Versus

1. The State of Jharkhand
2. The State of Jharkhand through Chief Secretary, Ranchi.
3. The Secretary, Water Resources Department, Ranchi.
4. The Additional Secretary, Water Resources Department, Ranchi.
5. The Under Secretary, Govt. of Jharkhand, Ranchi.
6. The Engineer in Chief-I, Department of Water Resource, Ranchi.
7. Shambhunath Singh
8. Amarandra Bharti
9. Parshuram Bhandri
10. Prabhat Kumar Singh
11. Chalchit Kumar Mahto
12. Umesh Prasad Singh
13. Satish Kumar Respondents

CORAM : HON'BLE DR. JUSTICE S.N. PATHAK

- For the Petitioners : Mr. Mohan Kumar Dubey, Advocate
Mr. Uptal Kant, Advocate
Mr. Vishwanath Moon, Advocate
For the Respondents : Mr. Ashok Kr. Singh, AC to SC(L&C)-III

5/ 15.05.2024 Heard the parties.

2. The petitioners have approached this Court praying for a direction upon the respondent-State to consider their case for promotion to the post of Assistant Engineer, as several other juniors to the petitioners have been promoted to the post of Assistant Engineer by Notification No. 7363 dated 30.12.2023. The petitioners have also prayed for quashment of the said Notification dated 30.12.2023.

3. Learned counsel appearing for the petitioners submits that though the petitioners are eligible for promotion to the post of Assistant Engineer, but merely in absence of ACRs of the petitioners, their case could not be considered by the Departmental Promotion Committee. He submits that admittedly the custodian of the ACR is the State/Department and it is not a business of the employee to keep the ACR with him. Learned counsel further submits that never any communication was made by the Department

as to whether the ACR was in favour of the petitioners or any adverse remark is there. Learned counsel submits that the entire service records of the petitioners were unblemished and as such, a direction be given to the respondent-State to consider their case for promotion from the date the juniors to them were promoted.

4. At the very outset, learned counsel appearing for the respondents referring to paragraph-9 of the counter affidavit submits that the case of the petitioners is under active consideration.

5. In view of the fair submissions of the learned counsel for the parties, this Court is of the view that though the promotion is not a right of an employee, but the right of consideration is accrued when junior to the employee concerned has been considered for promotion. The respondents have not considered the case of the petitioners only on the ground of non-availability of ACRs. Admittedly, the custodian of the ACR is the Department/ State and it is not supposed to keep the ACP with the employee. It is also not a case of the respondents that there is any adverse remark against the petitioners.

6. In the facts of this case, I hereby direct the respondent-State to consider the case of the petitioners for promotion from the date their juniors have been promoted to the post of Assistant Engineer, if there is no other legal impediment, and subject to fulfillment of all eligibility criteria for promotion to the post of Assistant Engineer by the petitioners. Let the entire exercise be completed within a period of four weeks from the date of receipt of a copy of this order.

7. With the aforesaid observations and directions, this writ petition stands allowed.

(Dr. S. N. Pathak, J.)

R.Kr.