

(2000) 12 PAT CK 0063

Patna High Court

Case No: C.WJ.C. No"s. 8191 of 2000

Bihar Engineering Services Assn.
and Others (in 8191), Shrawan
Kumar Pandey and Others (in
8555), Basant Kumar Mehta (in
11292)@

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision: Dec. 5, 2000

Hon'ble Judges: Shiva Kirti Singh, J

Bench: Single Bench

Advocate: Sadanand Jha, Yugal Kishore, K.K. Thakur, for the Appellant; A.B. Sinha, S.D. Upadhyaya, Anil Kumar Tiwari for B.P.S.C., for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Shiva Kirti Singh, J.

Heard the parties. From the counter affidavits filed on behalf of the respondents and from the statement of the petitioners this Court is satisfied that there are sufficient number of vacancies in respect of Executive Engineers against which persons promoted vide order dated 19th May, 2000 (Annexure-3) can be posted so as to make their promotion to the post of Executive Engineer meaningful. It is clarified here that about 20 posts of Executive Engineer have been kept reserved for such persons who have not been cleared for promotion on account of different inquiries etc. pending against them. About 30 vacancies are reported to have already occurred since the last calculation made by the respondents themselves. In such circumstances, the petitioners have agreed to accept conditional posting that the posting granted to them may be affected on subsequent promotion of all the candidates whose cases have been kept pending for promotion depending upon total number of vacancies at the relevant periods. In such circumstances the simple grievance of the petitioners with regard to direction for posting of officers promoted

by Annexure-3 must be allowed for simple reasons that promotions already granted cannot be kept in abeyance only on account of delay in posting. Hence the prayer for posting of the concerned persons promoted by Annexure-3 is allowed and the respondents are directed to post the remaining 46 persons promoted by Annexure-3 within a period of eight weeks from the date of production/communication of a copy of this order before respondent no. 3, Commissioner-cum-Secretary, Department of Welfare. As indicated earlier such posting may be conditional if required due to actual paucity of posts available for the promoted officials.

2. So far as grievance with regard to promotion of Executive Engineer to the post of Superintending Engineer is concerned the stand of the respondent is that necessary recommendation has to be made by the Departmental Promotion Committee headed by the representatives of the Bihar Public Service Commission and such meeting is being delayed due to inability of the Bihar Public Service Commission to convene such meeting. It has further been submitted by the learned counsel for the State that meeting of the D.P.C. for the purpose are already scheduled for 15th December and 23rd December, 2000. On the other hand, learned counsel for the petitioner has submitted that such meetings had been fixed earlier also but were being adjourned from time to time without appreciating the need for timely decision in the matter of promotion and this leads to un-necessary loss and harassment to such officers who retired in the meantime. Such a grievance has been raised in this case by the Engineer's Association and in the connected case C.W.J.C. No. 885 of 2000 by the two affected Executive Engineers.

3. On behalf of affected individual Executive Engineers it has been suggested on the basis of a circular of the Bihar Government dated 27.11.76 (Annexure-3) to the reply to counter affidavit in C.W.J.C. No. 8855/2000 that Departmental Promotion Committee is required to consider cases of promotion of eligible officers keeping in view the anticipated annual vacancies and thereafter a panel should be prepared of officers found fit for promotion which may be utilized for filling up the vacancies through out the year. Such a procedure no doubt is envisaged in the said circular contained in Annexure-3 to take care of possible delay in convening the meeting of Departmental Promotion Committee in the interest of Administration as well as in the interest of right of individual officers to get timely promotion. The concerned respondents should keep in view the guidelines contained in the aforesaid circular in all future transactions.

4. So far as present situation is concerned, the next meeting of the D.P.C. should be held at an early date preferably within a period of one month from the date of production/communication of a copy of this order before the concerned respondents and they should consider the cases of all eligible officers against the vacancies anticipated till 31st, December, 2000. Necessary orders for promotions of the officers found fit for promotion should thereafter be issued expeditiously and

preferably within a month of holding of the meeting of the D.P.C. In this transaction also the respondents may consider granting promotions to suitable and eligible officers against vacancies reserved for persons presently not found fit for consideration for promotion and such promotions may be made conditional and liable to be readjusted in the case the vacancies are not available due to promotion of candidates presently under cloud. The writ application are disposed of accordingly. The case of petitioners in C.W.J.C. No. 11292/2000 is being disposed of in the same terms as orders passed in other cases.