

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W. P. (S) No. 6076 of 2023

Kaushal Kishore

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Petitioner

Versus

1. The State of Jharkhand through the Additional Chief Secretary, Department of Energy, Govt. of Jharkhand, Ranchi
2. Principal Secretary, Road Construction Department, Govt. of Jharkhand, Ranchi
3. Additional Secretary, Department of Energy, Govt. of Jharkhand, Ranchi
4. Under Secretary, Department of Energy, Govt. of Jharkhand, Ranchi
5. Chief Electrical Engineer, Department of Energy, Govt. of Jharkhand, Ranchi
6. Executive Engineer (Electrical Wing Division), Electrical Works Circle, Govt. of Jharkhand, Ranchi
7. Md. Irshad Alam

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Respondents

CORAM: HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

For the Petitioner

: M/s Indrajit Sinha & Arpan Mishra, Advocates

For the State

: Ms. Khushboo Kumari, AC to GP-IV

Oral Order

02 / Dated : 06.11.2023

1. The instant writ petition has been filed under Article 226 of the Constitution of India for quashing the order as contained in Memo No. 2002 dated 18.10.2023, whereby and whereunder, final gradation list published by the Energy Department, Government of Jharkhand, Ranchi for promotion to the post of Assistant Engineer (Electrical) from the post of Junior Engineer (Electrical) against 10% of vacancy of the Assistant Engineer in one calendar year earmarked for those who have appeared in AMIE examination has been challenged.
2. Petitioner was appointed to the post of Junior Engineer (Electrical) Electrical Works Division, Department of Energy, Govt. of Jharkhand, pursuant to recruitment conducted by the Jharkhand Public Service Commission, Ranchi vide office order dated 31.05.2013.
3. The petitioner after taking due permission to appear in AMIE examination appeared and passed the examination. The petitioner completed five years of service on 31.05.2018 and has further acquired AMIE degree in the year 2023.
4. As per resolution dated 01.09.2009 (Annexure-6/1) of the Road Construction Department, Govt. of Jharkhand, Ranchi, there is provision for promotion to 10% post of Assistant Engineer from Junior Engineer by those who had cleared AMIE examination.
5. Notice for filling up 10% vacancy of Assistant Engineer, Electricity Department, Govt. of Jharkhand was notified on 20.03.2023.
6. The petitioner submitted his application for the said vacancy on 06.07.2023.

Pursuant to the notice issued, the petitioner had submitted the relevant documents and his application for promotion to the said 10% post.

7. Considering the application submitted for the said post, provisional gradation list was issued vide Memo No. 1317 dated 11.07.2023 against which the petitioner filed representation which has been rejected vide the impugned order.
8. Assailing the provisional gradation list it is submitted by learned counsel for the petitioner that as per general gradation list, the petitioner is senior to the private respondent (R-7) and by the impugned order dated 18.10.2023 the petitioner has been denied promotion on the ground that the seniority list was prepared for the year 2018 to 2022 and in Clause (Kha) and (Gha) of the resolution dated 01.09.2009. Notice inviting application for the promotional post did not disclose the year of vacancy or it confined the vacancy arising in the year 2018 to 2022. In this view of the matter, all the eligible Junior Engineers on the feeder post who had acquired AMIE Degree on the date of notification should have been eligible for promotion. However, without considering the seniority of the petitioner, the petitioner has been denied promotion in the provisional gradation list published by the impugned order. It is further submitted that Departmental Promotion Committee (DPC) is scheduled to be held on 07.11.2023 and any promotion without considering the case of the petitioner will cause irreparable loss to him.

Under the circumstance and for the grounds taken, discussed above, the promotion to 10% post of Assistant Engineer which has been advertised vide Memo No. 604 dated 20.03.2023 (Annexure-6) is stayed till further orders.

Learned counsel for the petitioner is directed to serve notice upon respondent No. 7 for which requisites etc. under registered cover with A/D as well as under ordinary process must be filed within one week.

Let this case be listed on 09.01.2024 in anticipation of appearance of respondent No. 7 and / or on receipt of the service report.

In the meantime, learned counsel for the State-respondents is directed to file the counter affidavit.

(Gautam Kumar Choudhary, J.)

AKT/Satendra
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