

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**W.P.(S) No. 4276 of 2024**

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Daya Ram aged about 41 years, S/o Muneshwar Ram,  
present posted at-Water Ways Division, Medininagar, P.O.  
& P.S.-Medininagar, District-Palamu. .... Petitioner

Versus

1. The State of Jharkhand
2. The Chief Secretary, Government of Jharkhand, having its office at-Project Building, P.O. and P.S. Dhurwa, District- Ranchi.
3. The Secretary, Water Resources Department, having its office at-Nepal House, Doranda, P.O. and P.S.-Doranda, District-Ranchi.
4. The Additional Secretary, Water Resources Department, having its office at-Nepal House, Doranda, P.O. and P.S.-Doranda, District-Ranchi.
5. The Under Secretary, Water Resources Department Government of Jharkhand, having its office at-Nepal House, Doranda, P.O. and P.S.-Doranda, District-Ranchi.
6. The Engineer in chief-I, Department of Water Resource, having its office at-Nepal House, Doranda, P.O. and P.S.-Doranda, District-Ranchi.
7. Satyadev Paswan S/o not known to the petitioner presently working under the Secretary of Rural Works Department, having its office at-Nepal House, Doranda, P.O. and P.S.-Doranda, District-Ranchi.

.....Respondents

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**CORAM : HON'BLE MR. JUSTICE DEEPAK ROSHAN**

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For the Petitioner : Mr. Mohan Kumar Dubey, Advocate  
For the Resp.-State : Mr. Sanket Khanna, A.C. to AAG-V

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**02/01.08.2024** Heard the parties.

2. The petitioner has approached this Court praying for a direction upon the respondent-State to consider his case for promotion to the post of Assistant Engineer, as several other juniors to the petitioner have been promoted to the post of Assistant Engineer *vide* Notification No. 02/09-01/2023 dated 30.12.2023. The petitioner has also prayed for quashment of the said Notification dated 30.12.2023.

3. Learned counsel appearing for the petitioner submits that though the petitioner is eligible for promotion to the post of Assistant Engineer, but merely in absence of ACR of the petitioner, his 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 petitioner or any adverse remark is there. Learned counsel submits that the entire service records of the petitioner was unblemished and as such, a direction be given to the respondent-State to consider his case for promotion from the date the juniors to him were promoted.

4. At the outset, learned counsel appearing for the respondents submits that though counter-affidavit has not been filed, however the case of the petitioner will be considered as per the applicable rules and regulations.

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 petitioner only on the ground of non-availability of ACR. Admittedly, the custodian of the ACR is the Department/ State and it is not supposed to keep the ACR with the employee. It is also not a case of the respondents that there is any adverse remark against the petitioner.

6. In the facts of this case, I hereby direct the respondent-State to consider the case of the petitioner for promotion from the date his juniors have been promoted to the post of Assistant Engineer, if there is no other legal

impediment, and subject to fulfilment of all eligibility criteria for promotion to the post of Assistant Engineer by the petitioner. 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.

**(Deepak Roshan, J.)**

Amardeep