

IN THE HIGH COURT OF JHARKHAND AT RANCHI
L.P.A. No.314 of 2025

1. The State of Jharkhand through the Principal Secretary, Road Construction Department, Government of Jharkhand, Ranchi, Nepal House, Doranda, Ranchi.
2. The Principal Secretary, Road Construction Department, Government of Jharkhand, Ranchi, Nepal House, Doranda, Ranchi.
3. The Deputy Secretary, Road Construction Department, Government of Jharkhand, Ranchi, Nepal House, Doranda, Ranchi.
4. The Engineer-in-Chief, Road Construction Department, Government of Jharkhand, Ranchi, Nepal House, Doranda, Ranchi.
5. The Executive Officer, Nagar Parishad Lohardaga, having its office at M.G. Road, Near Menka Hall, Lohardaga.

..... Appellants.

-Versus-

1. Bikaram Mandal, son of Sri Kuber Mandal, resident of village Kisan Prasad, P.O. Rampur, P.S. Sahebganj, District-Sahebganj.
2. Anil Kumar Soren, son of Late Sonaram Soren, resident of village Narayanpur, P.O. Kusumghati, P.S. Rajamati, District-Godda.
3. Kishore Kumar Murmu, son of Late Mahendra Murmu, resident of village Belatkar, P.O. Baghamari, P.S. Devipur, District-Deoghar.
4. Binkos Khess, son of Sri Ilyajar Khess, resident of village Samsera, P.O. Samsera, P.S. Bolba, District-Simdega.
5. Sushil Kumar Minz, son of Late Peka Minz, resident of village Jhinhri, Korambe, P.O. Korambe, P.S. Mandar, District-Ranchi.
6. Dhanay Jetha Kumar Horro, son of Late Subodh Kumar Horo, resident of Mohalla-Lapa, P.O. Lapa, P.S. Karra, District-Khunti.
7. The Jharkhand Public Service Commission, Ranchi, Circular Road, P.O. G.P.O., P.S. Kotwali, District-Ranchi, through its Chairman.
8. The Chairman, Jharkhand Public Service Commission, Ranchi, Circular Road, Kotwali, Ranchi.
9. Sandip Lakra.
10. Anil Kumar Besra.

11. Pyarelal Marandi.
12. Dilip Oraon.
13. Pritam Kumar Marandi.

Nos.9 to 12 posted as Assistant Engineer (Civil) at Road Construction Department, Nepal House, Doranda, Ranchi.

..... Respondents.

**CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJESH SHANKAR**

For the Appellants : Mr. Anish Kumar Mishra,
A.C. to Sr. S.C.-I
For the Res. Nos.1-6: Mr. Rupesh Singh, Advocate
Mr. Amarendra Pradhan, Advocate
For the Res. Nos.7&8 Mr. A. Allam, Sr. Advocate
Mr. Faisal Allam, Advocate

Order No.07

Date: 09.03.2026

1. Heard learned counsel for the parties.
2. I.A. No.4966 of 2025 seeks condonation of delay of 101 days in instituting this appeal.
3. The reasons set out in the aforesaid I.A., in the peculiar facts of the present case, constitute sufficient cause. The delay is also not inordinate. Accordingly, we condone the delay and dispose of this I.A.
4. With the consent and at the request of learned counsel for the parties, we have taken up the appeal for consideration.
5. The learned counsel for the appellants-State submitted that, in this matter, through a public advertisement, the officers were called upon to produce documents such as vigilance clearance, list of assets, etc., based on which their cases could be considered for promotion from the post of Junior Engineer to Assistant Engineer (Civil).

6. The Learned counsel for the appellants submits that, despite such notice by advertisement, since no such documents were produced by the original petitioners (respondents nos.1 to 6 herein), their cases could not be considered for promotion. The Learned counsel for the appellants also relied on the decision in the case of ***Government of West Bengal and Ors. Vs. Dr Amal Satpathi and Ors., (2024) SCC Online SC 3512*** to submit that the grant of any retrospective promotion would not be proper. He submitted that promotion can be effective only from the date on which it is granted.
7. The Learned counsel for the respondents (original petitioners), however, submitted that there was no communication to the petitioners to submit any documents. He pointed out that a letter was addressed to the departmental head, but it was never communicated to the petitioners. Without prejudice, he submitted that most of the documents were already furnished, and documents like vigilance clearance, etc., had to be furnished by the concerned department of the appellants themselves. He submitted that there is no error in the view taken by the learned Single Judge in the impugned order and, therefore, this appeal may be dismissed.
8. We have considered the rival contentions, and we are satisfied that no case is made out to admit this appeal. The reasons for this conclusion are set out briefly hereafter.

9. This is admittedly not a case where the original petitioners were ineligible for promotion for lack of any qualifications, experience, etc.
10. By a letter dated 29th August, 2022, issued by the Joint Secretary to the departmental head, the departmental head was required to call upon the original petitioners and other employees to furnish certain details/documents regarding their service history, character report, list of assets, etc. The record shows that this letter, dated 29th August, 2022 or the request contained therein, was never communicated to the original petitioners. There is a finding of fact to this effect in paragraph no.10 of the learned Single Judge's impugned order. Even the pleadings to this effect were never denied by the appellants in their counter-affidavit.
11. Insofar as the public advertisement is concerned, the learned Single Judge has referred to the principles under Order V Rule 20 of the CPC and ruled that substituted service through paper publication cannot be resorted to in the very first instance and that too, by a department against its own employees working in the department. Even the principle of fairness required the respondents to be given an adequate opportunity to produce documents/information in their possession, assuming that such documents/information were a necessary precondition for their consideration for promotion to the post of Assistant Engineer (Civil).
12. Ultimately, it was found that the original petitioners were not only eligible but also fulfilled the standards necessary for promotion

even after the furnishing of the details/information. Thus, for hyper-technical considerations, for which the original petitioners were really not to be blamed, they were denied their right to be considered for promotion. It was in the above peculiar circumstances that the learned Single Judge directed their promotion effective from the date on which their juniors were considered and granted promotion, along with all consequential benefits.

13. The decision in ***Dr. Amal Sathpati (Supra)*** will not apply to a situation of the present nature. This decision relies upon ***Bihar State Electricity Board vs. Dharamdeo Das, 2024 SCC OnLine SC 1768*** at paragraph no.19, which is the paragraph relied upon by the learned counsel for the appellants-State.
14. ***Dharamdeo Das (Supra)*** holds that promotion is effective from the date it is granted, not from the date a vacancy occurs in the subject post or the post itself is created. Here, the original petitioners are not claiming promotion from either the date of the vacancy or the date the promotional post was created. They have claimed and are now granted promotion only from the date on which their juniors were considered and granted promotion.
15. Further, this is a case where the learned Single Judge's impugned order has already been complied with by the appellants-State, no doubt, subject to the outcome of this L.P.A. The order dated 19th February, 2026, now produced before us, shows that the original petitioners were not directly granted promotion; their cases were placed before the Departmental Promotion Committee (DPC).

The DPC considered the matter and, upon doing so, found that the original petitioners are entitled to be promoted from the date their juniors were promoted. This is also not a case where the principle of no work, no pay would apply, because the original petitioners were always willing to work, but for reasons the learned Single Judge correctly found arbitrary, they were denied such promotion.

16. For all the above reasons, we are satisfied that there is no merit in this appeal and, consequently, we dismiss the same without any order for costs.

(M. S. Sonak, C.J.)

(Rajesh Shankar, J.)

9th March, 2026
Sanjay/Rohit
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