

with
W.P. (S) No. 5726 of 2017

W.P. (S) No. 2189 of 2018

Shyam Das Singh	...	...	Petitioner
Versus			
The State of Jharkhand and others			
	...	...	Respondents

**CORAM :HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD
HON'BLE MR. JUSTICE NAVNEET KUMAR**

For the Petitioner : Mr. Jitendra Singh, Sr. Advocate
Ms. Amrita Sinha, Advocate
Mr. Yash Singh, Advocate
Mr. Ishan, Advocate
Ms. Anjali Kumar, Advocate
[In WPS No. 654/18 & 2189/18]
Ms. Amrita Kumar, Advocate
[In WPS No. 5726/17]

For the Res-State : Mrs. Darshana Poddar Mishra, AAG I

For Res. No. 6-JSEA : Mr. Krishna Murari, Advocate

For the Res. 6 & 7 : Mr. Mahesh Tewari, Advocate

Order No. 34 : Dated 17th October, 2024
Per Sujit Narayan Prasad, J:

1. Reference may be made to order dated 4th September, 2018 passed in W.P. (S) No. 654 of 2018, wherein the

Co-ordinate Bench while passing the order took note of the issue that the main point involved in the writ petition is as to whether Jharkhand Engineering Service Recruitment Rules, 2016 shall prevail over Bihar Engineering Service Rules, 1938 or not; and under the later rules, Assistant Engineers coming from both Graduate and Diploma streams are eligible for promotion to the post of Executive Engineer.

2. Mr. Jitendra Singh, learned senior counsel assisted by Ms. Amrita Sinha, learned counsel for the petitioners in W.P. (S) No. 654 of 2018 and W.P. (S) No. 2189 of 2018 has made oral submission to withdraw these writ petitions on the ground that the decision has been taken by the Road Construction of the State Government vide resolution dated 09.10.2024 with respect to the petitioners in W.P. (S) No. 654 of 2018 and W.P. (S) No. 2189 of 2018.
3. Mr. Mahesh Tewari, learned counsel appearing for respondent nos. 6 and 7 has vehemently opposed the prayer for withdrawal of the writ petitions. It has been contended that the order has been passed during pendency of the writ petition when still the issue is to be decided, which has been agitated by the writ petitioners, as pleaded in the writ petition.

4. It has been submitted by referring to resolution dated 09.10.2024 that the said order has been passed only with respect to the petitioners in W.P. (S) No. 654 of 2018 and W.P. (S) No. 2189 of 2018 with specific stipulation that decisions granting promotion will not be treated to be precedence as would appear from paragraph 42 of the said resolution.
5. This Court, on perusal of the aforesaid resolution, is of the view that the affidavit is required to be sought for from the State as to why the decision taken by the State with respect to the petitioners in W.P. (S) No. 654 of 2018 and W.P. (S) No. 2189 of 2018 with stipulations made therein that this resolution will not be treated to be precedence.
6. This Court needs to know the same as to whether before consideration of these cases i.e., the case of petitioners in W.P. (S) No. 654 of 2018 and W.P. (S) No. 2189 of 2018, the case of other identical persons have been referred before the Departmental Promotion Committee for its consideration or not and if not reason is to be explained.
7. Let such affidavit be filed, explaining the reason, to be filed by the Principal Secretary of the Department on or before the next date of hearing.

8. Ms. Amrita Sinha, learned counsel for the petitioner has argued in W.P. (S) No. 5726 of 2017 and raised the grievance that the petitioner of the present case has not been granted promotion.
9. This matter [W.P. (S) No. 5726 of 2017] will also be considered along with other matters [W.P. (S) No. 654 of 2018 and W.P. (S) No. 2189 of 2018] on the date fixed.
10. List this case on **18.11.2024**.

(Sujit Narayan Prasad, J.)

(Navneet Kumar, J.)