

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12699 of 2015

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1. Rajendra Yadav Son of Late Baleshwar Yadav, Resident of village - Madhuban,
P.O. - Khamouti, P>S. - Bakhtiyarpur, District - Saharsa.

.... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Patna.
2. The Principal Secretary, Rural Development Department Government of Bihar,
Patna.
3. The Director Rural Development Department, Government of Bihar, Patna.
4. The Officer on Special Duty, Rural Development Department, Government of
Bihar, Patna.
5. The Deputy Development Commissioner Cum Deputy Chairman of the District
Rural Development Authority, Munger, District - Munger.
6. The Director, Accounts Administration, District Rural Development Agency,
Munger.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dronacharya

Mr. Vijay Bardhan Pandey

For the Respondent/s: Mr. Sanjay Prasad, AC to AAG 6

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 26-11-2015

Petitioner has filed this writ application challenging
Anneuxre-1 dated 7.7.2015. By virtue of this order, the respondent
authorities of DRDA, Munger decided to take away the benefit of
ACP, revise the pay scale and even effect recovery.

Assertion is made that the whole decision to undue the
benefit already granted earlier is, per say, arbitrary. The benefit was
granted on the basis of the length of service of the petitioner under the
respondents and in terms of the policy and the circulars relating
thereto.



The stand of the State is that the petitioner is an employee of DRDA. The ACP scheme, notified in the year 2003, applies to only State Government employees. DRDA employees are not employees of the State but are employees of a Society which is run and funded by the Central Government and a long drawn legal battle to acquire status even in the past has not yielded any results. If on a mistaken or on a forged kind of letter purportedly issued by the Rural Development Department, the benefit was drawn by certain people or employees of DRDA then that cannot form the basis to hang on to the benefit.

Besides the stand of the State, this Court had occasion to look into a similar matter earlier where it has emerged that on a forged kind of circular, benefits were acquired or taken by certain employees of DRDA relating to Munger and other adjoining districts. The Court after taking into consideration the affidavit of the Principal Secretary of the Department as well as other functionaries has already held that there is no circular over and above the notification relating to ACP, which brings any employees of DRDA within the ambit of the notification relating to grant of ACP.

If this is the position then obviously, the petitioner cannot hang on to the benefit which has been granted on a totally illegal and non-existent circular or policy.

Today a rejoinder to the counter affidavit has been filed

where Annexures 9 and 10 have been annexed as a proof that benefit of ACP has been extended to large number of persons, therefore, there is no reason why petitioner should be discriminated or be denied the benefit by virtue of Annexure-1.

With due respect to learned counsel representing the petitioner, it is desperate measure to mislead the Court on the question of benefit conferred in terms of Annexure 9 and 10. It is evident from reading of Annexure 9 and 10 that beneficiaries are employees of Rural Development Department and not District Rural Development Authority. The Court does not appreciate this kind of conduct and assistance.

Writ application has no merit. It is dismissed.

The reasons for the deductions are sustainable in law.

Before parting, learned counsel for the petitioner makes a desperate effort by citing a decision of the Hon`ble Apex Court rendered in the case of State of Punjab and others vs. Rafiq Masih (White Washer) etc., 2015 (1) PLJR 261.

With due respect, the decision of the Hon`ble Apex Court does not apply to the facts of the present case as basis for begetting such benefit is on forged and fabricated documents. Benefit of ACP is not applicable to the set of employees who are not Government employees. It is a case of fraud and deceit, based on which the benefit

of ACP scheme has been granted to the petitioner, which is not available to him. Therefore, the principle laid down by the Apex Court does not apply to the present set of facts.

(Ajay Kumar Tripathi, J)

R.K.Pathak/-

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