

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1113 of 2013

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Sri Aryind Jha, S/O Late Chiranjib Jha, R/O Vill + P.O. -Bel, Via- Baiganea, Distt-Sitamarhi (Bihar)

.... Petitioner

Versus

1. The State of Bihar, through the Principal Secretary, Department of Water Resources, Government of Bihar, Patna
2. The Divisional Commissioner, Tirhut Pramandal, Muzaffarpur
3. The Chief Engineer, Water Resources Department, Muzaffarpur
4. The Superintending Engineer, Head Work Circle, Sitamarhi
5. The Executive Engineer, Bagmati Pramandal No.1, Sitamarhi, Distt-Sitamarhi
6. The Treasury Officer, Sitamarhi
7. The Accountant General, Bihar, Birchand Patel Path, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Purushottam Kumar Jha, Advocate

For the Respondent/s : Mr. Sunil Kumar Karn, AC to SC1

For the Accountant General : Mr. Namrata Mishra, Advocate

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CORAM: HONOURABLE MR. JUSTICE SAMARENDRA PRATAP SINGH

ORAL JUDGMENT

Date: 04-12-2015

Heard learned counsel for the petitioner and the respondents.

2. The petitioner was initially appointed vide letter no. 4 dated 02.01.1973 on the post of Work Sarkar in Work Charge Establishment. Subsequently, vide letter no. 8177 dated 12.11.1973, he was appointed as Temporary Correspondence Clerk on 17.11.1973. Later on, his services was confirmed. The petitioner retired from the service on 31.05.2011. He was granted 1st Time Bound Promotion vide order dated 31.08.1989 of Superintending Engineer, Head Work Circle, Sitamarhi w.e.f. 17.11.1983. By letter dated 02.10.1992, the

date of his Time Bound Promotion was shifted to 02.01.1983. Subsequently, vide office order dated 17.01.2004, the date of 1st Time Bound Promotion was modified to 17.11.1983.

3. The petitioner seeks quashing of letter dated 26.06.2004 issued by the Superintending Engineer (respondent no.4) and letter dated 11.10.2012 issued by the Divisional Commissioner (respondent no.2) whereby the 1st Time Bound Promotion granted w.e.f. 17.11.1983 was rescinded and an excess sum amounting to Rs. 2,22,124/- was recovered. The petitioner protested against the withdrawal of Time Bound Promotion. The authorities refunded the recovered amount. The petitioner has no grievance with respect to the substantial relief sought in the instant writ application.

4. The petitioner submits that the Time Bound Promotion came to be closed on 31.12.1999 and was replaced with Assured Career Progression Scheme (ACP), which was made effective from 09.08.1999. As per the ACP Scheme, an employee, who has put in 12 years of service would be entitled to 1st financial progression and after next 12 years of service would be entitled to another ACP. The ACP scheme too came to an end on 31.12.2005 and was replaced with the Modified Assured Career Progression Scheme (MACP). The last scheme was an improvement on the earlier scheme. The time duration for benefit under the scheme was reduced to 10 years from 12 tears. In

other words, after 10 years of service, one would be entitled to 1st MACP and after another 10 years, 2nd MACP and after another 10 years, the 3rd MACP.

5. He further submits that his case for grant of 3rd Financial Progression is in progress and in support of the same, the petitioner refers to Annexure-D to the Counter affidavit, a letter dated 02.02.2013 of Executive Engineer, Bagmati Division, Sitamarhi addressed to Superintending Engineer along with check list.

6. Counsel for the State submits that the petitioner had not passed his Accounts examination and that was the reason that initially a sum of Rs.2,22,124/- was deducted from the petitioner's salary. He further submits that only such persons, who had passed the Accounts examination prior to September, 1983 were exempted from taking the examination.

7. I find that initially the 1st Time Bound Promotion was granted w.e.f. 17.11.1983, which was subsequently modified to 02.01.1983 on 02.10.1992. However, 12 years later, the date of time bound promotion was again altered and made effective from 17.11.1983.

8. The petitioner appeared in Account Examination on 23.09.1989, the result of which was published vide letter dated 30.10.1990 showing him successful. The 2nd and 3rd Departmental

examinations were held on 12.07.1997 and 13.07.1997, which too he passed. Besides this, I find that the excess amount, which was recovered on account of shifting of the date of time bound promotion was subsequently refunded to the petitioner. The petitioner has retired on 31.05.2011.

9. The respondents have already taken steps for grant of 3rd MACP. It is expected that they would finalize the matter within a period of four months from the date of receipt of a copy of this order.

10. With the aforesaid observation, this application stands disposed of.

(Samarendra Pratap Singh, J.)

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