

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9110 of 2008

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1. Dhananraj Prasad, S/o Late Budhan Mahto, Resident of Jana Tola, Jhamatapur, P.S. Asthawan, District Nalanda
 2. Horil Paswan, S/o Late Nanhu Paswan, Resident of Village- Pachawara, P.S. Harnaut, District Nalanda
 3. Rabindra Prasad, S/o Sri Hari Mistri, Resident of Village- Rajakuan, P.S. Bihar Sharif, District Nalanda
 4. Jang Bahadur Singh, S/o Late Ram Balak Singh, Resident of Malikpur, P.S. Rajgir, District Nalanda
 5. Smt. Shyamful Devi, W/o Late Sidheshwar Prasad Singh, Resident of Vilalge-Janaro, P.S. Silao, District Nalanda

.... Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Food & Consumer Protection Department, Government of Bihar, Patna
3. The Director, Directorate of Consumer Protection, Government of Bihar, Patna
4. The Managing Director, Bihar State Food & Civil Supplies Corporation, Bihar, Patna
5. The District Magistrate, Nalanda at Bihar Sharif
6. The Secretary to the President, District Consumer Disputes Redressal Forum, Nalanda

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. P.N.Pathak
For the State : Mr. Sanjay Prasad, AC to AAG 6
For the Corporation : Mr. R.P.Birnaway

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT

Date: 06-08-2015

The petitioners have approached the High Court for a direction upon the respondent State authorities, especially Department of Food and Consumer Protection, Government of Bihar to consider their claim for grant of benefit of ACP by counting the period of service they have rendered under a government Corporation, namely, Bihar State Food and Civil Supplies Corporation. These petitioners



were appointed in the Corporation on various posts and dates, details of which is available in paragraph 3 (i) to (v). Subsequently by virtue of Annexure- 2 (A) and (B), their services came to be absorbed by the Food, Supply and Commerce Department and they were posted in different consumer courts across the State. They worked on the post and position assigned to them by the respective District Magistrates and some of them even superannuated during the pendency of the writ application.

Submission of the counsel for the petitioners is that they are covered by the ratio and decision rendered by a learned Single Judge in the case of Prem Prakash v. State of Bihar, reported in 2000 (3) All PLR 313. A copy of the said decision is Annexure- 3. Based on the rational and reasoning in Prem Prakash's case, other Benches have also given direction to treat the period of service rendered in government Corporation as part and parcel of the length of service after their absorption in the State.

If this be so then the Court fails to understand as to how the respondent authorities are taking a stand that there is no scheme for grant of ACP for employees of the Corporation and that it was a case of fresh appointment of the petitioners because they were also put on probation.

The notification contained in Annexure 2 (A) uses the

word “*Samayojan*”. The word “*Samayojan*” means absorption and not fresh appointment. If this be so then a misleading kind of counter affidavit has been filed on behalf of the State trying to deny the benefit to which the petitioners may be entitled to.

The writ application is allowed with a direction upon the respondents to consider the case of the petitioners for grant of benefit of ACP taking the period of their service even under the Corporation but with a clear rider that this benefit can only accrue provided they fulfill all the other requirements which are laid down for such grant of benefit of ACP.

(Ajay Kumar Tripathi, J)

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