

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3667 of 2015

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Ram Babu Rai S/o Shri Horil Rai, Resident of village- Sabalpur, P.S.-
Sonepur, District- Chhapra

.... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Urban Development Department, Bihar, Patna
2. The Director, Patna Municipal Corporation, Patna
3. The Chief Engineer, Water Supply Branch, Patna Municipal Corporation
4. The Executive Engineer, Water Supply Branch, Patna Municipal Corporation, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anuj Kumar, Adv & Mr. Archit Raj
Pal, Adv

For the State : Mr. Manoj Kumar Sinha AC to SC-30

For the P.M.C. : Mr. Ranjeet Kumar Pandey, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

3 09-04-2015 Heard learned counsel for the parties.

2. The prayer of the petitioner in this writ
application reads as follows:-

*“To consider the case of the Petitioner and ascertain
that the arrears of the increment and Assured Career
Progression is paid to the petitioner in compliance with the
guidelines available and in accordance with the eligibility of
the petitioner for the same, from 08.10.2006 up till now.”*

3. Learned counsel for the petitioner has
submitted that when Patna Municipal Corporation has
adopted the Government decision of granting A.C.P.,
non consideration till date of the benefit of A.C.P., to

the petitioner is wholly unreasonable.



4. Learned counsel for the Patna Municipal Corporation having obtained instructions has submitted that the consideration of the case of the petitioner for grant of A.C.P. was made but the same has been kept pending awaiting result of the criminal case against the petitioner being N.D.P.S. Case No. 196 of 2006. It has also been in this regard explained that petitioner was arrested on 08.10.2006, and had also remained in custody up to 09.05.2008. Learned Counsel has also pointed out that the petitioner in fact had been suspended for the aforementioned period and the order vacating suspension has already clearly recorded that the payment of salary for the period of suspension would depend on the outcome of the pending criminal case against the petitioner.

5. Learned counsel for the Patna Municipal Corporation has also submitted that notwithstanding pendency of the decision relating to A.C.P. on account



of the criminal case, the benefit of annual increment to the petitioner for the period from 01.07.2011 to 01.07.2014 has been extended to the petitioner for which necessary orders have also been passed.

6. In the considered opinion of this Court, one of the condition for grant of A.C.P. is to fulfill all the terms and conditions of promotion. A.C.P. is only an anti-stagnation measure for want of higher promotional post.

7. Thus, if the petitioner on account of pendency of the trial being N.D.P.S. Case No. 196 of 2006, cannot earn regular promotion as is the law laid down by the Apex Court in the case of ***Union of India and Ors vs V.K.V Jankiraman & Ors reported in AIR 1991 SC 2010***, the same principle will have to be also applied in the matter of grant of A.C.P. The petitioner therefore, cannot be granted A.C.P. till he earns clean acquittal in the pending criminal case. Judged in this light the decision of the Patna Municipal Corporation therefore to keep the issue of grant of A.C.P. to the petitioner

pending till disposal of the trial of the petitioner in N.D.P.S. Case No. 196 of 2006 is absolutely justified both on fact and in law.

8. That being so, this writ application fails and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

Ranjan/-

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