

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.767 of 2014

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1. Subodh Kumar Dutta Son Of Late Bhavesh Chandra Dutta Resident Of Village- Vikash Nagar, P.O.- Bahorna, P.S. Belhar, District- Banka, At Present Residing At Professor'S Colony, Bilasi Town, Deoghar, P.S.- Deoghar, District- Deoghar, Jharkhand

.... Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Water Resources Department, Government Of Bihar, Patna
2. The Principal Secretary, Water Resources Department, Government Of Bihar, Patna
3. The Chief Engineer, Water Resources Department, Bhagalpur
4. The Executive Engineer, Irrigation Division, Baunsi, Banka
5. The Accountant General, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Bibhakar Tiwary

For the Respondent/s : Mr. Manindra Kishore Singh

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL ORDER

4 11-02-2015

Heard learned counsel for the parties.

On the objection raised by the Accountant General dated 12.1.2011 contained in Annexure 9, the benefit of second A.C.P. granted to the petitioner earlier has been annulled in terms of Annexure 11 dated 22.2.2011. Petitioner wants quashing of Annexure 11 in the present writ application.

The objection of the Accountant General is that the petitioner came to be appointed on the post of Correspondence Clerk with effect from 10.8.1981. Therefore, the inclusion of the period of stagnation will begin from 10.8.1981. The previous

period of work rendered by the petitioner in the Work Charge Establishment can not be counted.

Learned counsel for the petitioner has filed a supplementary affidavit today and he has brought on record the notification contained in Annexure 16 series. From a reading of the same it is evident that absorption of the petitioner on the post of Correspondence Clerk was not by way of promotion. It was a case of bringing the petitioner from Work Charge Establishment to regular establishment by giving him a post. The pay scale which the petitioner drew as Work Charge employee was the same pay scale which was extended to him even as a Correspondence Clerk i.e. Rs.220-315/-.

Yet another provision of significance pointed out by the counsel for the petitioner is the provision contained in rule 4.1 of the Bihar State Employees Service Conditions (Assured Career Progression Scheme) Rules, 2003. Reading of rule 4.1 would indicate that since the petitioner drew the same pay scale or a revised pay scale during the period in question and merely because he held a different post with a different nomenclature, it will not come in the way of the petitioner in getting the benefit of the A.C.P.

In view of the same the impugned order contained

in Annexure 11 is quashed. The initial objection raised by the State of Bihar in the counter affidavit seems to be misplaced in view of department’s notification contained in Annexure 16 series as well s the provisions under rule 4.1 of the 2003 A.CP. Rules.

Writ application is allowed.

(Ajay Kumar Tripathi, J)

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