

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2629 of 2007

- =====
1. Jainath Jha S/O Late Paras Jha R/O Village and P.O.- Raghunathpur, Via- Rajpur, P.S.- Keshariya, District- East Champaran (Bihar), Present Posted Of Typist, Planning & Designing Division No. 3, Ratwara, Muzaffarpur, Bihar
 2. Subansh Kumar Singh S/O Late Laleshwar Prasad Singh R/O Village- Sitalpur, P.O.- Bidupur Bazar, District- Vaishali (Bihar), Presently Posted On The Post Of Correspondence Clerk, Tirhut Canal Division, Gandak Project, Ratwara, Muzaffarpur (Bihar)
 3. Sachidanand Singh S/O Late Sukhdeo Choudhary R/O Village & P.O.- Belwar, Via- Anirudh Belsar, District- Muzaffarpur (Bihar), Presently Posted On The Post Of Correspondence Clerk, Tirhut Canal Division, Gandak Project, Ratwara, Muzaffarpur
 4. Triloki Nath Mishra S/O Sri Santi Nath Mishra R/O Village & P.O.- Yamsam, P.S.- Pandaul, District- Madhubani (Bihar), Presently Posted On The Post Of Clerk, Tirhut Canal Division, Ratwara, Muzaffarpur (Bihar).
 5. Rakesh Kumar Raman S/O Late Harihar Lal R/O Mohalla- New Colony Balu Ghat, Muzaffarpur (Bihar), Presently Posted On the Post of Junior Account Clerk, Tirhut Canal Division, Ratwara, Muzaffarpur (Bihar)
 6. Hiralal Paswan S/O Late Mauze Lal Paswan R/O Village- Jogani Jaga, P.O.- Bariyarpur, P.S.- Sakra, District- Muzaffarpur (Bihar), Presently Posted On The Post Of Clerk, In The Office Of Executive Engineer, Tirhut Canal Division, Ratwara, Muzaffarpur (Bihar)
 7. Satay Narayan Choudhary S/O Sri Ram Chandra Choudhary R/O Village- Shankarpur, P.O.- Kumbha, District- Sitamarhi (Bihar), At Present Typist, Office Of The Executive Engineer, Tirhut Canal Division, Ratwara, Muzaffarpur (Bihar)

.... Petitioners

Versus

1. The State Of Bihar
2. The Chief Secretary, Bihar, Patna
3. Secretary, Department Of Water Resources, Bihar, Patna
4. The Chief Engineer Water Resources Department, Muzaffarpur (Bihar)

.... Respondents

=====

Appearance :

For the Petitioners	:	Mr. Priyadarshi Matri Sharan, Advocate
For the State	:	Mr. A.K.Dubey, AC to AAG-4.
For the respondents	:	Mr. Naresh Dikshit Advocate.

=====

CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 04-05-2015

Heard the parties.

The writ application was filed on behalf of as many as

11 petitioners. The records indicate that the writ application has been withdrawn on behalf of the petitioner no.4, namely, Bhageshwari Sharma, petitioner no.8, namely, Sayed Ali Ahmad, petitioner no. 9, namely Rajendra Prasad Singh and petitioner no.10, namely Anjani Kumar Sinha. Now, the writ application survives only in respect of seven petitioners.

In the writ application filed under Article 226 of the Constitution of India, the petitioners have prayed for quashing of the order dated 10.5.2006 (Annexure-1) whereby they were not granted the benefit under the Assured Career Progression Scheme (for short 'ACP Scheme') which has been implemented in the year 2003 but with retrospective effect. A further prayer was made for directing the respondents to grant them the said benefit.

It has been stated that during pendency of this application, petitioner no.3 , namely, Sachidanand Singh, petitioner no.7, namely, Hirala Paswan have retired. However, their claim survives.

From the counter affidavit and the submissions made by the learned counsel for the State which has not been disputed by the petitioners during pendency of this application, all the petitioners except petitioner no.3 have been granted the benefit under the ACP scheme. Diverse reasons have been assigned for non- grant of the



benefit from the dates the petitioners claimed from. The petitioner no.3 has been denied the benefit on the ground that he did not pass the Accounts examination. The counsel for the petitioners has submitted that the said reason of the State for non- grant of benefit to the petitioner no.3 and the other petitioners from their respective dates is contrary to the earlier decision of the Government for grant of benefit under the ACP scheme which was not made dependent on passing of the Accounts examination .

Per contra, learned counsel for the State, has referred to the scheme of the ACP itself (Annexure-A to the counter affidavit) in order to submit that the scheme itself contemplates grants of such benefit if the employees is/are otherwise found eligible for promotion after clearing the examinations etc. The counsel for the petitioners has sought liberty of the Court to file a claim in this regard on behalf of the petitioners herein which should be directed to be considered by the appropriate authority. The State has not objected to the said submission.

Regard being had to the above, the writ application is disposed of permitting the petitioners to file a detailed representation supported by all relevant documents before the respondent-Chief Engineer, Water Resources Department (respondent no.4). If any such representation is filed within a period of four weeks from today the

said respondent shall examine the same and pass appropriate but reasoned order thereon as quickly as possible preferably within 08 weeks from the date of such filing along with a copy of the present order.

(Kishore Kumar Mandal, J)

Shyam/-

U			
---	--	--	--