

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6384 of 2016

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1. Shailendra Kumar Son of Sri Kapildeo Singh, resident of Quarter No. A/21,
M.I.T. Campus, Muzaffarpur, P.S.- Brahampura, District- Muzaffarpur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Science and Technology Department, Govt. of Bihar,
Technology Bhawan, Bailey Road, Patna
3. The Director, Science & Technology Department, Government of Bihar, Patna
4. The Assistant Director (Administration), Science & Technology Department,
Government of Bihar, Patna
5. The Member Secretary, Departmental Grievance Redressal Committee, Science
& Technology Department, Government of Bihar, Patna
6. The Principal, Muzaffarpur Institute of Technology, Muzaffarpur- 840023
7. The Secretary, All India Council for Technical Education, a statutory body of the
Government of India, New Delhi
8. The Joint Secretary, Finance Department, Govt. of Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr Ramakant Sharma, Sr. Advocate
Mr. Lakshmi Kant Sharma

For the Respondent/s : Mr. Ravindra Kumar, AC to AAG 6

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 08-08-2016

Counter affidavit on behalf of respondent no.4 and 7 has been filed though sworn by the Director, Science and Technology. The grievance of the petitioner that he has stagnated all his life because he has joined as Foreman and still continues as a Foreman initially did sound very discriminatory as well as unfair but now it emerges that the petitioner did not present the correct picture and state the facts with regard to his service career.



Petitioner joined as a Foreman under the erstwhile managing committee when the Engineering College was in private hands. When the College in question was taken over by virtue of an Ordinance in 1991, the government treated such posts also as a teaching post and petitioner was granted benefit of pay scale provided to such persons at par with a Lecturer. In other words, it is not a case of stagnation but the petitioner has been deriving benefit far far above than what a Foreman was entitled to in the very first place because a Foreman being treated as a Lecturer by itself is a huge huge jump for such kind of position. The Director has further indicated that it is only after the 2012 amendments brought about by the State Government that from the year 2014 certain advantages existing in favour of the petitioner has been taken away, one of them being he is no longer a teacher in terms of the definition.

The said amendments though challenged before the High Court but the petitioners therein failed to succeed. The matter is now pending before the Apex Court. This matter, therefore, cannot be stretched or dragged beyond a point. However, as and when decision of the Hon'ble Supreme Court is rendered with regard to the 2012 amendments, may be the petitioner can agitate the issue if that judgment in any manner allows certain benefits or leeway to the likes of the petitioner.

The respondent authorities have taken a categorical stand in the counter affidavit that so far as stagnation benefit is concerned, they are willing to consider the claim of the petitioner for grant of ACP.

Let the petitioner make an application before the concerned authority and the said authority will examine such claim keeping in view the service record of the petitioner and the prevalent rules relating to such grant of ACP, which is now known as MACP. An early decision preferably within a period of three months should be taken and communicated to the petitioner.

Writ stands disposed of in terms of the above observation and direction.

(Ajay Kumar Tripathi, J)

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CAV DATE	
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