

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6672 of 2013

=====

1. Mohamad Jahagir Ansari Son Of Late Neyazuddin Ansari Resident Of Village-
Chakiya, P.O.- Ratanpur, P.S.- Ratanpur, District- Bhojpur

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Secretary, Minor Irrigation Department, Government Of Bihar, Patna
3. The Chief Engineer (South), Minor Irrigation Department Area Government Of Bihar, Patna- 14
4. The Superintending Engineer, Tubewell Circle, Ara, Bhojpur

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Gopal Govind Mishra, Advocate.

For the State : Mr. A. Ujjwal, SC 25

Mr. Upendra Pratap Singh, AC to SC 25

=====

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 08-04-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

In the present writ petition, petitioner is challenging the
order dated 20.10.2012 issued by the Chief Engineer (South),
Minor Irrigation Department, Ara Government of Bihar, Patna
by which he has set aside the order dated 11.8.2012 passed by
the Superintending Engineer, Tube well Circle, Ara Bhojpur by
which he had granted A.C.P. with effect from 8.6.1991.

Learned counsel for the petitioner submits that at the
initial stage petitioner was appointed in the Water Development
Corporation vide letter no. 3361 dated 4.6.1979 but the said

department was dismantled and all employees working in the Water Development Corporation were merged with the Minor Irrigation Department, accordingly petitioner and others were merged in the Minor Irrigation Department.

Limited issue has been raised by the petitioner that the period for which he has discharged the duty in the Water Development Corporation has wrongly been refused to take into consideration while granting the benefit of first, second and third A.C.P. whereas earlier period of service should be counted which he has discharged in the Water Development Corporation that was dismantled and they have been brought protecting the service condition.

The petitioner has moved before this Court vide C.W.J.C. No. 3357 of 2010 and this Court vide order dated 30.9.2010 disposed of the case of the petitioner held that period of service that he has discharged in the Water Development Corporation is required to be taken into consideration.

In pursuance thereof the authority has passed the order dated 19.9.2011(Annexure-10) which become subject matter of contempt vide M.J.C. No. 1367 of 2011 and this Court has directed for proper examination of the case of the petitioner and pass the order in the light of order passed in C.W.J.C. No. 5601

of 2010.

In pursuance thereof the Superintending Engineer passed the order dated 11.8.2011 which was set aside by the Chief Engineer. Hence this writ petition.

Admittedly petitioner was an employee of the Water Development Corporation, merger has taken place and in such situation period rendered by the petitioner in the Water Development Corporation cannot be refused to be taken into consideration for granting A.C.P. but one thing is very clear that A.C.P. Rule, 2003 was made effective on 9.8.1999 so he will get the relief first A.C.P. on and after 9.8.1999 as before 9.8.1999 as there was no A.C.P. Rule. So any employee cannot be granted relief of A.C.P. earlier to 9.8.1999.

In this view of the matter, the Chief Engineer (South), Minor Irrigation Department, Ara Government of Bihar, Patna, is directed to take decision with regard to entitlement of the petitioner's A.C.P.

For the convenience, petitioner is directed to file a detailed representation before the Chief Engineer (South), Minor Irrigation Department, Ara Government of Bihar, Patna who will decide the matter and pass a reasoned order within a period of two months from the date of filing of the representation.

With the aforesaid observation this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

U			
---	--	--	--