

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15440 of 2011

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1. Ram Krit Ram S/O Late Sheo Ram, Retired Pump Attendant/Pump Driver, Patna Water Board, Patna Municipal Corporation, Patna at present residing at Water Board's Engineers' Campus, Road No. 2, Water Tower, Near Millar School, Police Station - Kotwali, District - Patna
 2. Sugambar Das S/O Late Bal Kishun Paswan, Retired Pump Attendant/Pump Driver, Patna Water Board, Patna Municipal Corporation, Patna at present residing at Mohalla - Purandarpur, Post - G.P.O., Police Station Jakkanpur, District - Patna
 3. Suraj Narain Paswan S/O Late Kailash Ram, Retired Pump Attendant/Pump Driver, Patna Water Board, Patna Municipal Corporation, Patna at present residing at Mohalla - Yarpur, New Gumati, Kailash Bhawan, Khagaul Road, Police Station - Gardanibagh, District - Patna

.... Petitioners

Versus

1. The State of Bihar through Principal Secretary, Urban Development Department, Government of Bihar, Patna
2. The Patna Municipal Corporation, through the Chief Executive Officer, Patna
3. The Chief Executive Officer, Patna Municipal Corporation, Patna
4. The Chief Executive Officer, Patna Municipal Corporation, Water Board Section, Buddha Marg, Patna Gaya Road, Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Singh
For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

12 10-05-2016

Heard Sri Rajesh Kumar Singh, learned counsel for the petitioners and Sri Ranjit Kumar Pandey, learned counsel for the Respondent/Patna Municipal Corporation.

Three petitioners, who retired in between 2008 and 2009, have approached this Court, invoking its writ jurisdiction under Article 226 of the Constitution of India, with a prayer to direct the Respondents to grant them 1st Time Bound Promotion as

well as 2nd Time Bound Promotion and also 1st, 2nd and 3rd ACP.

Learned counsel for the petitioners has placed reliance on Annexures- 5 to 13 to the writ petition i.e orders passed by this Court as well as the order of the Apex Court.

In this case, a counter affidavit has been filed on behalf of Respondent nos.2 to 4. Sri Ranjit Kumar Pandey, learned counsel for the Respondent/Patna Municipal Corporation, by way of referring to averment made in paragraph-6 of the counter affidavit, submits that the provision of Time Bound Promotion has never been implemented in Patna Municipal Corporation and further no decision has been taken by the Corporation to give the benefit of ACP to retired employees. Though the petitioners have filed reply to the counter affidavit, but there is no specific denial, only a vague statement has been made in the reply filed by the petitioners.

So far as order of the Apex Court is concerned, the appeal was disposed of on the ground that earlier amount was not paid due to paucity of fund and an undertaking was given to make payment as soon as fund is received. Learned counsel for the Respondent/Patna Municipal Corporation by way of referring to Annexure-9 to the writ petition i.e. a copy of the order passed by a Division Bench on 10.11.2005 in L.P.A. No.1007 of 2004,

submits that the Corporation had preferred an appeal before the Division Bench against the single Bench order. However, the said appeal was withdrawn after recording submission of learned counsel for the Corporation that in future the said order may not be taken as a precedent. Similarly, he has referred to Annexure-11 i.e. a Division Bench Order dated 23.11.2007 passed in L.P.A. No. 25 of 2007, whereby the Division Bench has categorically observed that the order may not be treated as precedence in future cases. Fact remains that even the policy decision regarding time bound promotion, which was implemented by the State Government, has already come to an end in the year 1995 itself. Moreover, in the counter affidavit, a specific stand has been taken that the Corporation has never implemented the time bound promotion in respect of employees of the Corporation. So far grant of ACP is concerned, once policy decision was taken by the Corporation that same may not be given to the retired employees, the Court is of the opinion that no favourable order can be passed.

The writ petition stands dismissed.

(Rakesh Kumar, J)

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