

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Letters Patent Appeal No.248 of 2016**

**Arising out of**

**Civil Writ Jurisdiction Case No. 14712 of 2008**

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Rameshwar Roy, son of Late Ram Dharikshan Roy, resident of Kautilya Nagar,  
Near AG Colony, P.S. Shastri Nagar, District- Patna.

.... .... Appellant

Versus

1. The State of Bihar through Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
3. The Under Secretary, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.
4. The Engineer-in-Chief, Water Resources Department, Government of Bihar, Sinchai Bhawan, Patna.

.... .... Respondents

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**Appearance:**

For the Appellant/s : Mr. Sanjeet Kumar, Advocate.

For the Respondent/s : Mr.

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**CORAM: HONOURABLE THE ACTING CHIEF JUSTICE**

**and**

**HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA**

**ORAL JUDGMENT**

**(Per: HONOURABLE THE ACTING CHIEF JUSTICE)**

**Date: 16-12-2016**

Re.: I.A. No. 969 of 2016

This application is for condonation of delay of 45 days  
in filing the Letters Patent Appeal.

For the reasons mentioned in the Interlocutory  
application, we are satisfied that the appellant has shown sufficient  
cause to seek condonation of delay in filing the present Letters Patent  
Appeal.

Consequently, Interlocutory Application is allowed and



delay in filing the Letters Patent Appeal is condoned.

Re.: L.P.A. No. 248 of 2016

The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 23<sup>rd</sup> September, 2015 whereby, the claim of the appellant for grant of Assured Career Progression (A.C.P.) pay scale in terms of ACP Rule, 2003 was declined. The claim was not allowed for the reason that the appellant has been imposed punishment on 27.08.1993 disentitling the appellant for promotion for 10 years.

Learned counsel for the appellant contends that such condition to deny promotion is for regular promotion and not for the grant of ACP pay scale.

However, we do not find any merit in such argument. The clause 4(5) of the ACP Rules, 2003 reads as under:

“The prescribed requirements and mode of sanction of financial progression under the scheme shall be the same which are prescribed under the Recruitment/Service Rules for regular promotion against vacancies. If the Rules/Resolutions prescribed passing of the departmental examination or any qualification for promotion that shall also be an essential condition for sanction of benefit under the scheme, provided that after completion of 12/24 years of service, the financial progression shall become due and for this, there shall be no bar of period prescribed for regular promotion.

Explanation: (i) Notwithstanding any provision for relaxation in the period of service for regular promotion to certain categories of employees contained in any Rules, no



relaxation of conditions in the period of 12/24 to eligibility years shall be granted for the benefits of financial progression under the Scheme.

(ii) If the first financial progression, granted to a Govt. servant, is delayed beyond 12 years of regular service due to disciplinary proceedings etc. or due to the government servant being found unfit for promotion, then the second financial progression under the Scheme shall be granted after 12 years for the date of the first financial progression.”

Since there is an order of punishment of denying him regular promotion for a period of 10 years, the appellant in view of the aforesaid clause cannot get even benefit of ACP pay scale.

We do not find that the rules of regular promotion are not applicable while granting the benefits under the ACP scheme as the same Rules as are applicable for regular promotion has to be applied even before the grant of ACP Scale. Consequently, we do not find any merit in the present Letters Patent Appeal and the same is dismissed.

**(Hemant Gupta, ACJ)**

**(Arvind Srivastava, J)**

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