

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3393 of 2016

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1. Bharat Singh Son of Late Pandit Singh, Resident of Village - Khiriyawan, post - Wazirganj, District - Gaya at present resident of Mohalla - Satyendra Nagar (Near Devi Mandir), Post - Aurangabad, District - Aurangabad.

.... Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. The Principal Secretary, P.H.E.D. Department, New Secretariat, Patna.
3. The Joint Secretary I, P.H.E.D. Department, New Secretariat, Patna.
4. The Joint Secretary II, P.H.E.D. Department, New Secretariat, Patna.
5. The Deputy Secretary, P.H.E.D. Department, New Secretariat, Patna.
6. The Executive Engineer, P.H.E.D. Department, New Secretariat, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kumar Dhirendra Pratap Singh
For the Respondent/s : Mr. AC to GP 3

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
ORAL JUDGMENT
Date: 26-10-2016

This is the second visit of the petitioner before the Court after the previous writ application was disposed of with a direction upon the Principal Secretary, Department of PHED, Government of Bihar to consider the claim of the petitioner for grant of benefit of MACP or also casually worded as 3rd ACP.

Basic facts are not a matter of dispute that the petitioner superannuated after completing 30 years of service on the post of Junior Engineer. What is of significance is that the petitioner entered service as a Junior Engineer and superannuated also from the post of

Junior Engineer, meaning thereby that he never earned a promotion for all the hard and good work he may have done during the course of career.

Petitioner was granted 1st and 2nd ACP benefit but the whole crux of the dispute now is the insistence of the petitioner for grant of 3rd ACP under the modified ACP Rules.

The Principal Secretary in his order dated 22.9.2015, Annexure- 1 to the writ application, which is under challenge, has considered the claim of the petitioner and has rejected the same in view of the parameters, which have been laid down for such benefit. The relevant circular in this regard is circular no.922, dated 30.3.2011. The relevant provision is paragraph 3 thereof, which indicates as to what would amount to the evaluation of good work by an employee. The words used are- उत्कृष्ट (Outstanding), बहुत अच्छा (Very Good), अच्छा (Good), औसत (Average) and प्रतिकूल (Adverse).

Learned counsel representing the petitioner has taken this Court to the entries made with regard to the conduct and work of the petitioner. Unfortunately for him none of the words, which have been provided for in the rules, have been used by his superior authorities. One word, which has some significance, however, is word 'कर्मठ' . This word 'कर्मठ' means good, a position even accepted by the State of Bihar in its counter affidavit. The relevant

circular of the General Administration Department is dated 30.3.2011 and annexed as Annexure- B.

None of the other words, which have been used with regard to the petitioner, is of any relevance. The best which the petitioner can urge so as to compel the authorities is to read the word 'कर्मठ' as good, but it does not help the petitioner in any manner because the 3rd ACP or a grade pay of Rs.7600, which the petitioner is eyeing through his writ application, cannot be granted to him. He must earn an entry as either 'very good' or 'outstanding'. The benchmark of good is not good enough for him to beget Rs.7600 grade pay. The sum and substance of the reasons for rejection of the claim of the petitioner provided by the Principal Secretary of the Department is based on the parameters and the rules which govern such rights.

Since there is no infirmity or illegality as well as irrationality emerging from the reading of the impugned order contained in Annexure-1, the entries provided for the petitioner with regard to him do not add up for this Court to give a direction to grant benefit of 3rd ACP or grade pay of Rs.7600.

The Court does not want to be uncomplimentary to the petitioner but the fact that 30 years of service on the same post by a government servant could also be an indicator to his competence and

ability.

Writ application is dismissed being devoid of merit.

(Ajay Kumar Tripathi, J)

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