

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11279 of 2013

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1. Onkar Nath Jha Son Of Dasarath Jha Resident Of Village & P.O. : - Kaitha, P.S.
: - Sambhuganj, District : - Banka

.... Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Government Of Bihar, Patna
2. The Principal Secretary, Water Resource Department, Govt. Of Bihar, Patna
3. The Secretary, Water Resource Department, Govt. Of Bihar, Patna
4. The Joint Secretary, Water Resource Department, Govt. Of Bihar, Patna
5. The Chief Engineer, Water Resource Department, Govt. Of Bihar, Patna
6. The Chief Engineer, Siwan Area, Water Resource Department, Bihar
7. The Executive Engineer, Flood Control Division No. 3, Madhubani Camp, Padrauna
8. The Accountant General, Bihar, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kislay, Advocate.

For the State : Mr. Sanjay Kumar, AC to GP 23

For Accountant General : Mr. Manrata Mishra, Advocate.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 25-10-2016

Heard learned counsel for the petitioner and learned
counsel for the State as well as Accountant General.

In the present writ petition, petitioner is seeking relief for
third time bound promotion in terms of 2010, MACP Rule which
has been made effective in 2009.

The ground has been assigned for non-entitlement of ACP
is not having passed the departmental examination. Rule 4(5)
2003, ACP Scheme postulates the entitlement of ACP but subject
to passing of examination but such type of provision has not

been mentioned in 2010 MACP Rule.

The Government has issued resolution vide resolution no. 3713 dated 5.5.2016 whereby it provides that eligibility of financial progression will be same as prescribed under the recruitment/service rules for grant of regular promotion against the vacancies but this resolution cannot give retrospective effect at best made applicable on and after 5.5.2016. As petitioner become entitles much before issuance of this resolution he cannot be deprived of the benefit of third ACP.

In such view of the matter, this Court directs the respondent to grant third ACP without taking into consideration the issue of passing the examination. The respondent is directed to pass the appropriate order within a period of four months from the date of receipt/production of a coy of this order.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.10.2016
Transmission Date	NA