IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15892 of 2013

==========

Saroj Kumar Verma S/o Late Ram Nandan Prasad, resident of near Baidyanath Nursing Home, Bhavdeopur, Mela Road, P.S.- Sitamarhi, District- Sitamarhi.

.... Petitioner/s

Versus

1. The State of Bihar
2. Superintending Engineer, Road Construction Department, North Bihar Circle, Muzaffarpur
3. Executive Engineer, Road Construction Department, Road Division, Sitamarhi
4. Accountant General (A & E), Bihar, Patna, Birchand Patel Path, Patna

.... Respondent/s

==========

Appearance :

For the Petitioner/s : Mr. Vivek Prasad
For the State : Mr. Ashis Kumar Lal, AC to GA-5
For the Accountant G. Mr. Satyendra Kumar Jha, Adv.

==========

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 06-12-2016

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

In the present case, the petitioner is claiming the benefit of 1st and 2nd ACP on the ground that after reaching the age of 50 years, the respondent authorities were to consider his application for grant of exemption from passing the Accounts Examination and that aspect has not been taken into consideration, straightway they refused to grant him the relief of ACP.

The petitioner was appointed as Junior Accounts Clerk on 19.07.1974 and was asked to join the Office of Superintending Engineer Building Circle on 26.07.1974 and later on,

WEB COPY

he was transferred to the Office of the Executive Engineer, P.W.D., Building Division, Samastipur on 03.12.1977 and ultimately, he superannuated from the service as Senior Accounts Clerk after the merger of Junior Accounts Clerk and Senior Accounts Clerk.

The counsel for the petitioner submits that the petitioner has completed 50 years as on 10.04.1998, before enforcement of the ACP Scheme, but the respondent authority has wrongly refused to grant him benefit of the 1st and 2nd ACP.

In the counter affidavit, the stand of the State is that the exemption cannot be granted to the petitioner, as he does not satisfy the condition no. 3 of Circular dated 09/11/1983 (Annexure-A) which provides that the exemption can be granted to those persons, who have continuously made effort and participated in the examination unsuccessfully, but there is no averment in the petition that he has made an effort to pass the said examination, but he could not be declared successful.

In the counter affidavit sweeping statement has been made that without dealing with the issue, how many times examination was conducted whether at any time, the petitioner had taken part in the examination and if he had not appeared in the certain examination whether he has assigned the reason for his non-appearance in the said examination. These the aspects were required

WEB COPY

to be looked into by the respondent authorities before arriving to a conclusion of refusing to grant the aforesaid relief.

Let the petitioner file a proper application before the competent authority with regard to granting the exemption from passing the Accounts Examination and he will give details about the reason of his not passing the said examination and respondent authority will consider his application and take decision in accordance with law by way of passing a reasoned order after giving due hearing to the petitioner.

With the above observation/direction, this petition is disposed of.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	14.12.2016
Transmission Date	

WEB COPY