

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9660 of 2014

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Shambhu Raut Son of Late Nathuni Ram Resident of Village- Sansaraiya, P.S-
Nautan, District- West Champaran.

.... Petitioner

Versus

1. The State of Bihar
2. The District Magistrate, West Champaran at Bettiah.
3. The District Accounts Officer, West Champaran at Bettiah.

.... Respondents

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Appearance :

For the Petitioner : Mr. Prabhu Nath Pathak, Advocate

For the Respondents : Mr.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 18-11-2016

Heard counsel for the petitioner and counsel for the
State.

If the petitioner had not passed the departmental
examination during his period of service and he passed the accounts
examination only on 29.08.2010 after 29 years of service, he cannot
claim benefit of the ACPs by simply adding up the number of years
of service behind him.

Grant of benefit of ACP flows from the statutory
provisions or the rules. The original rule is of the year 2003 and the
amended Rule is of the year 2010. Both the Rules in specific terms,
specially sub-rule (5) of Rule 4 of 2003 Rules and Rule 14 of 2010
Rules lay down in unambiguous terms that a right to even beget
benefit of ACP can only flow provided an employee is otherwise

eligible for substantive promotion. There is no reading down of the rigors in the two provisions.

Since the petitioner had passed the examination on 29.08.2010, therefore, his eligibility to beget his ACP was earned from that date. It seems that the petitioner has ended up with the benefit of 1st and 2nd ACP, which is also not permissible under Rule 14 of 2010 MACP Rules. There seems to be an omission committed on the part of the sanctioning authority as well. The matter, therefore, would be required to be revisited and relooked into by keeping Rule 14 into mind.

It is because of the wrong fixation and grant that the pay-scale of the petitioner is not being fixed and he is not deriving benefit.

The respondents, therefore, are directed to correct the omission committed by them in grant of such benefit under the ACP and MACP Rules and fix his pay scale accordingly.

Writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

Pawan/-

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