

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12290 of 2013

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1. Kamlesh Mishra S/O Late Deo Nandan Mishra R/O Village- Patori, P.S.- Patori,
District- Darbhanga

.... Petitioner/s

Versus

1. The State Of Bihar Through Its Principal Secretary, Land Revenue Department,
Govt. Of Bihar, Patna
2. The Divisional Commissioner, Darbhanga
3. The District Magistrate, Madhubani
4. The Circle Officer, Phulparas, District- Madhubani

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prabhat Kumar Singh, Advocate.

For the : Mr. Shilpi Keshri, AC to AAG X

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 28-11-2016

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

This writ petition has been filed for giving direction to the
respondents to grant third ACP.

Learned counsel for the petitioner has pointed out that
present supplementary counter affidavit is nothing but repetition
of the earlier counter affidavit wherein it has been said that
matter has been referred to the Committee for consideration of
granting third ACP. Petitioner has already granted first and
second ACP.

It appears from the record that all the relevant records with
regard to granting third ACP have been sent to the Committee for
consideration of third ACP. In the earlier counter affidavit in



paragraph 16 it has been stated that application for grant of third ACP was recommended by the Circle Officer, Phulparash. The letter of the District Magistrate dated 27.5.2013 indicates that he has written a letter to the Secretary to the Commissioner, Darbhanga Division, darbhanga dated 27.5.2013 whereby it has been stated that recommendation in favour of the petitioner has been received and petitioner is not getting the revised pension on account of having not decided the benefit of third ACP, in turn the Commissioner, Darbhanga vide letter no.543 dated 20.7.2013 wrote the aforesaid letter to the Deputy Secretary Land and Revenue Department, Government of Bihar, Patna, there he has recorded that the District Magistrate and Circle Officer have recommended the case of the petitioner for grant of third ACP. Even thereafter no meeting has been held.

Again supplementary counter affidavit reiterated the same statement that petitioner could not have been granted third ACP on account of having not holding meeting for grant of third ACP.

State could not improve the situation by bringing the additional counter affidavit save and except reiterating the statement of recommending his case for third ACP to the Committee.

In the counter affidavit nowhere it has been stated that petitioner is not entitled for third ACP but only constrain has

been shows before this Court that no meeting for grant of third ACP has not been called.

In this view of the matter, this Court directs the Principal Secretary, Land and Revenue Department, Government of Bihar, Patna for holding the meeting for the purposes of granting third ACP with respect to the petitioner and the same should be held within three months from the date of receipt/production of a copy of this order. It is a matter of 2013 so it will be expected from Principal Secretary, Land and Revenue Department, Government of Bihar, Patna would do needful without lapse of time. If the petitioner is found entitled to third ACP the consequential benefit in terms of retirement should be given to him.

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

Learned counsel for the State is directed to send a copy of this order to the Principal Secretary, Land and Revenue Department, Government of Bihar, Patna forthwith for needful.

Vinay/-

(Shivaji Pandey, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	2.12.2016
Transmission Date	NA