

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14032 of 2013

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Madan Mohan Sharmam son of late Kamla Prasad Sharma, resident of Village
Salempur, P.O. Jaru Banwariya, P.S. Hulashganj, District Jehanabad

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary to the Government of Bihar,
Patna
2. Principal Secretary, Water Resources Department, Anisabad, Government of
Bihar, Sinchai Bhawan, Patna.
3. Joint Secretary, Water Resources Department, Anisabad, Government of Bihar,
Sinchai Bhawan, Patna.
4. Under Secretary, Water Resources Department, Anisabad, Government of
Bihar, Sinchai Bhawan, Patna
5. Chief Engineer, Water Resources Department, Anisabad, Government of Bihar,
Sinchai Bhawan, Patna.
6. Technical Secretary to the Chief Engineer, Water Resources Department,
Anisabad, Government of Bihar, Sinchai Bhawan, Patna
7. Superintending Engineer, Ganga Sone Flood Protection Circle, Patna
8. Executive Engineer, Ganga Flood Protection Division, Bihta Camp Khagaul,
Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Mishra, Advocate.

For the Respondent/s : Mr. Kamlesh Kishore, AC to GP2

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 29-01-2016

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

In the present writ petition, the petitioner is challenging the
order vide Memo No.3857 dated 29.6.2007 issued by Chief
Engineer, Water Resources Department, Anisabad, Patna
whereby granted 2nd ACP..

The petitioner is claiming that he should be granted his 2nd
Assured Career Progression (hereinafter referred to as “ACP”)



with effect from 9.8.1999 whereas he has been granted ACP with effect from 15.9.2005. His claim is basically shifting back the date of 2nd ACP. The petitioner has joined as work Supervisor under the work charged establishment on 26.11.1973. The petitioner's service was regularised in the year 1981 and ultimately he was superannuated from service on 31.10.2011.

Learned counsel for the petitioner submits that respondent has wrongly refused to take into consideration the service rendered by the work charged establishment for the purposes of giving benefit of second ACP which is apparently clear from the notification dated 15.3.2006 which provides that the person rendered service of work charged establishment will be taken into for the purposes for granting ACP in terms of 2003 Scheme. He has also relied on Bihar State Employees Conditions of Service Conditions (Assured Career Progression Scheme) Rules, 2006 where explanation (ii)a provides the tenure of service rendered in work charged establishment would be counted for ACP for those who have been regularised in service. He further submits that benefit of ACP has been given to others by counting the period worked as work charged employee but in the case of the petitioner it has been ignored. So much so the period which has rendered in the work charged establishment has been taken into

consideration while granting pensionary benefit.

In view of the aforesaid facts, the respondents are directed to dispose of the representation of the petitioner dated 8.7.2012 (Annexure-7) has claimed that the period which he has rendered as work charged should also be taken into consideration for the benefit of ACP. The respondents are directed to consider the case of the petitioner taking into consideration the period he has rendered in work charged establishment in accordance with law. While passing the order the respondents will not be influenced or swayed away from the notification dated 29.6.2007. The respondent will dispose of the representation of the petitioner within a period of eight weeks from the date of receipt/production of a copy of this order. However, the petitioner, if so advised may file a detailed representation.

With the aforesaid observation this writ petition is disposed of.

(Shivaji Pandey, J)

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