

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 17193 of 2011

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1. Shiv Kumar Prasad S/O Hari Mistry Resident of Village-Rajakuan, P.S.-
Biharsharif, District-Nalanda.
2. Md. Salimuddin S/O Late Abdul Rahman Resident of A-110, Ali Nagar
Colony, P.S. Anishabad, District-Patna.

.... Petitioners

Versus

1. The State of Bihar.
2. The Secretary, Food & Consumer Protection Department, Bihar, Patna.
3. The Secretary, Personal & Administrative Reforms Department, Bihar,
Patna.
4. The Secretary, Finance Department, Bihar, Patna.
5. Registrar, State Consumer Disputes Redressal Commission, Bihar, Patna.
6. Managing Director, Bihar State Food & Civil Supplies Corporation,
Patna.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Prabhu Nath Pathak
For the Respondent/s : AC to Addl. Advocate General – 8
Mr. Shailendra Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR
ORAL ORDER

7. 27-10-2016 Heard Sri Prabhu Nath Pathak, learned counsel for
the petitioner, learned A.C. to Addl. Advocate General – 8 as well
as Sri Shailendra Kumar Singh, learned counsel, who has appeared
on behalf of respondent no. 6/Managing Director, Bihar State
Food and Civil Supplies Corporation.

Two petitioners, who were working as Personal
Assistant in the Department of Bihar State Food & Civil Supplies
Corporation (hereinafter referred to as ‘Corporation’), have
invoked writ jurisdiction of this Court under Article 226 of the
Constitution of India, with a prayer to quash an office order,



contained in Memo No. 2888 of 2015 dated 12-05-2010 {Annexure 1 (A)} and Memo No. 2836 dated 11-05-2010 {Annexure 1 (B)}, by which, claim of both petitioners respectively regarding grant of benefit under the A.C.P. Scheme taking services rendered by the petitioners in the Corporation was rejected. The said orders were passed, in view of earlier order passed by this Court in C.W.J.C. No. 2284 of 2010. Earlier petitioners had approached this Court, almost for the same relief, by filing a writ petition, vide C.W.J.C. No. 2284 of 2010. The said writ petition was disposed of on 08-03-2010, with a direction to Secretary, Food, Supply and Commerce Department, Govt. of Bihar to consider the representation of petitioners and decide within specified time. Thereafter, the case of petitioners was considered regarding the claim of benefit of the A.C.P. Scheme considering the services rendered in the Corporation and the respondent no. 2 has come to the conclusion that since earlier petitioners were in Corporation and their services were absorbed in the government, the petitioners are not entitled to get benefit under the A.C.P. Scheme treating their services rendered in the Corporation.

Learned counsel for petitioners, at the very outset, submits that the issue raised in the present writ petition has already



been set at rest earlier in a case reported in **2000 (3) All PLR 313 (Prem Prakash vs. State of Bihar)**. Learned counsel for petitioners, by way of referring to **Annexure – 19** to the supplementary affidavit, which was filed in the month of July, 2016, submits that considering the settled principle in the similar manner, this Court has allowed the writ petition i.e. C.W.J.C. No. 9110 of 2008 directing the respondents *to consider the case of the petitioners for grant of benefit of A.C.P. taking the period of service rendered even under the Corporation, but with a clear rider that this benefit can only accrue provided they fulfill all other requirements, in view of provisions under the A.C.P. Scheme.*

The Court is of the opinion that since the issue raised in the present writ petition has already been decided and other writ petitions were allowed, there is no reason to allow both the orders i.e. Annexure 1(A) and 1(B) to the writ petition.

Both the orders are hereby set aside with a direction to the respondents to consider the case of petitioners in the similar manner i.e. order dated 06-08-2015 passed in C.W.J.C. No. 9110 of 2010.

It is further directed that all the formalities must be completed within a period of three months from the date of

receipt/production of a copy of this order.

The writ petition stands disposed of.

(Rakesh Kumar, J.)

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