IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9719 of 2014

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Shahbir Paswan, S/o Late Chhotoo Paswan, Resident of Milki Hurari, P.S- Karai Parasurat, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Patna.
2. The Special Secretary (Home Special), Government of Bihar, Patna.
3. The, Inspector General of Police (Budget, Appeal, Welfare), Government of Bihar, Patna.
4. The Zonal Inspector General of Police, Patna Zone, Patna.
5. The Superintendent of Police, Nawada.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gajendra Kumar Jha Mr. Sushil Kumar Jha
For the Respondent/s	:	Mr. Mahendra Prasad Verma AC to SC-20

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

ORAL JUDGMENT

Date: 26-10-2016

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

A speaking order came to be passed by the IG (Welfare), Government of Bihar, Patna at the instance of the previous direction of the Court.

The grievance of the petitioner is that he is entitled to the benefit of 1^{st}, 2^{nd} and 3^{rd} A.C.P., looking at the long period of service he had rendered and superannuated on 31.01.2009.

The basic primary contention of the counsel for the petitioner is that for the benefit of A.C.P., non-passing of departmental examination cannot be made mandatory and the reasons given by the concerned authority is erroneous.

In view of the above, such stand taken by the petitioner is erroneous. A mere look at Rule 4, Sub-rule 5 of the 2003 A.C.P. Rules would indicate that even for grant of benefit of A.C.P., all the attributes, which is required for regular promotion, is also required to be fulfilled by an employee.

Petitioner despite long period of service never passed the departmental examination. The petitioner had to be granted exemption from passing the accounts examination even though he was holding the post of a Clerk and this exemption was granted only on 12.01.2007. Petitioner became entitled to the benefit of A.C.P. thereafter and the first A.C.P. was granted. After 12 years the second A.C.P. should accrue. The time for grant of second A.C.P. would have matured only on 04.06.2016. Petitioner superannuated on 31.01.2009. In other words the petitioner did not fulfill the minimum requirement for grant of second A.C.P.

The rational and reasoning given, therefore, by the concerned authority in the impugned order, contained in Annexure-1, dated 19.03.2014 does not suffer from any vice.

Writ application has no merit, it is dismissed.

(Ajay Kumar Tripathi, J)

SKM/-

AFR/NAFR	N.A.F.R.
CAV DATE	
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