

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.16411 of 2008

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Bhupendra Prasad Yadav, son of Late Shivnarayan Yadav, resident of village
Narpatganj, P.S. Narpatganj District Arariya Bihar

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Finance, Government of Bihar, Old Secretariat, Patna, Bihar
2. The Commissioner, Purnea Division, Purnea, Bihar
3. The Commissioner, Koshi Division, Saharsa, Bihar
4. The Collector, Purnea, Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vivekanand Singh 1

For the Respondent/s : AC to GP – 10

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 03-03-2017

Heard Sri Vivekanand Singh No. 1, learned counsel for the
petitioner and learned AC to GP No. 10.

The petitioner, in view of non-grant of benefit under the
Bihar State Employees Conditions of Service (Assured Career
Progression Scheme) Rules, 2003 (hereinafter referred to as “A.C.P.
Rules”) even after completion of more than 26 years of service was
constrained to approach this court by filing the present writ petition in
the year 2008. Though, the case was filed in the year 2008 for several
years no counter affidavit was filed. Thereafter, on 18.09.2015 a
Bench of this court, as a last indulgence granted four weeks time to
the State Counsel for filing counter affidavit. Even the said order was
not complied within time. However, belatedly a counter affidavit was



filed on behalf of the respondent on 26th October 2016. Even in the counter affidavit, which was sworn by the Circle Officer, Banmankhi (Purnea) it has not been indicated as to on whose behalf counter affidavit is being filed.

Short fact of the case is that the petitioner was appointed as Circle Inspector in the year 1981 and while filing the writ petition he was posted as Circle Inspector - cum –Qanungo, Banmankhi Block in the district of Purnea. Despite the fact that A.C.P. Rules was introduced in the year 2003, which was made effective/ applicable with effect from 1999, the case of the petitioner for grant of benefit of A.C.P. was not considered. The petitioner repeatedly filed representation before the competent authority. The Circle Officer vide Memo No. 306 dated 9.01.2007 had also recommended the case of the petitioner for consideration regarding grant of A.C.P. A plea has been taken that even after recommendation, the case of the petitioner was not considered for granting benefit of A.C.P. The petitioner filed several representations including representation, which has been brought on record as Annexure '1' to the writ petition.

In this case counter affidavit has been filed but counter affidavit is farce without any substance.

In view of the facts and circumstances that as per the A.C.P. Rules after completion of 12 years and 24 years of service an



employee was required to be granted benefit of A.C.P., the court is of the opinion that the writ petition can be allowed with a direction to the respondents to consider the case of the petitioner regarding his claim of A.C.P. All formalities must be completed within a period of three months from the date of receipt / production of a copy of this order.

It goes without saying that petitioner shall be entitled to get all the consequential benefits.

The writ petition stands allowed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06-03-2017
Transmission Date	NA

