

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11196 of 2008

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Mahendra Prasad Son of Shiboo Ram, R/o Mangla Gauri, P.S. –Civil Lines, District
Gaya

.... Petitioner/s

Versus

1. The State of Bihar,
2. The Principal Secretary, Human Resources Deptt, Govt. of Bihar, Patna.
3. The Director, Primary Education, Govt. of Bihar, Patna
4. The District Superintendent of Education, Gaya, District - Gaya

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. SURENDRA KUMAR SINGH

For the Respondent/s : Mrs. Binita Singh, S.C. 28

Mr. Nishant Kr. Jha, AC to SC 28

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL JUDGMENT

Date: 20-02-2017

Heard learned counsel for the parties.

The present writ application has been filed for a direction to the respondent authorities to grant the benefits of first and second ACPs in pursuance to Finance Department's notification published in the Bihar Gazette dated 27th June, 2003 and also for making payment of compensation and cost of litigation. The relief prayed for by the petitioner reads as follows:

“1.(i) To issue an appropriate writ order or direction commanding the respondents to accord the benefit of First as well as IInd Assured Career Progression Schemes (hereinafter referred as to A.C.P.) as per the Finance Department Notification published in Bihar Gazette on 27.06.2003.



- (ii) This Hon'ble Court may adjudicate and hold that non consideration delay and latches in grant of benefit of A.C.P. Scheme to the petitioner in spite of his entitlement requires a suitable compensation and cost of litigation to the petitioner.
- (iii) To issue a further writ order or direction commanding the respondent authorities to give benefit of Ist and IInd A.C.P. with all consequential benefits including arrears within a time schedule.
- (iv) To award any other relief or reliefs for which the petitioner and its members are found entitled in the facts and circumstances of this case.”

The factual matrix would unveil that the petitioner was appointed as Assistant Teacher in the Government Basic School on 18.3.1968. The petitioner was promoted to the cadre of Sub-ordinate Education Service with effect from 23.5.1987, vide Memo. No. 206 dated 23.5.1987 issued under the signature of Director, Primary Education-cum-Joint Secretary and was posted in Government Primary Teachers Training College, Sherghati, Gaya. The petitioner could not be promoted to the Cadre of Education Service Class II for which he became entitled in the year 2001. The District Superintendent of Education, Gaya vide letter no. 4825 dated 30.7.2001 recommended the case of the petitioner to the Director, Primary Education, Government of Bihar, Patna for grant of such



promotion. Though the scheme of ACP was framed on 9.8.1999 but the petitioner was not granted any of the ACPs and the petitioner ultimately retired on 31.7.2004.

It is submitted by learned counsel for the petitioner that the petitioner submitted several representations, one such representation dated 9.6.2008 has been brought on record as Annexure 7 to the writ application, but in spite of the fact that the District Superintendent of Education, Gaya vide letter no. 1144 dated 22.12.2006 again recommended to the Director, Primary Education, Human Resources Development Department for grant of ACP to the petitioner and others, as contained in Annexure 2, the grievance of the petitioner has not been redressed.

Since the petitioner has retired, learned counsel for the petitioner confines his prayer only to the extent of grant of ACPs and its consequential benefits.

The writ application was filed in 2008 but till date no counter affidavit has been filed on behalf of the State. The recommendation of the District Superintendent of Education, Gaya, as contained in Annexure 2 reflects that the petitioner was entitled for ACP. From the averments made in the writ application, it appears that the petitioner completed 12 years and 25 years of kalavadhi fixed for grant of first and second ACPs. Since the matter has been pending



since last eight years, this court is not inclined to adjourn it any further.

It is expected from the respondent authorities, particularly, Respondent nos. 2 and 3 to consider the claim of the petitioner as contained in Annexure 7 and pass appropriate order with regard to grant of two ACPs to the petitioner, keeping in view the representation and the earlier recommendation of the District Superintendent of Education, as contained in Annexures 7 and 2 respectively, within a period of six weeks from the date of receipt/production of a copy of this order. It is made clear that the consequential benefits which would flow from the order of the respondent authorities will also be paid within four weeks of the passing of the order on the representation of the petitioner.

With the aforementioned observation/direction, this writ application stands disposed of.

(Dinesh Kumar Singh, J)

Anil/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

