

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.8808 of 2015

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Bipin Bihari Jha son of Sri Gopi Kant Jha , resident of Village Maheshpur, P.O. Maheshpur, P.S. Basantrai, District Godda. At present resident at Mohalla Rasikpur, near Yogmaya Kali Mandir, P.O. and P.S. Dumka, District Dumka.

.... Petitioner

Versus

1. The State of Bihar through its Principal Secretary, Water Resources Department, Bihar, Patna.
2. The Engineer in Chief (North), Water Resources Department , Bihar, Patna.
3. The Chief Engineer, Water Resources Department , Darbhanga, Bihar.
4. The Superintending Engineer, Western Kosi Canal Circle No. -1 , Darbhanga.
5. The Executive Engineer, Western Kosi Canal Division, Darbhanga.
6. The District Provident Fund Officer, Darbhanga.
7. The Accountant General, Bihar, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Dhirendra Nath Jha

For the Respondents : Mr. N.K. Singh- SC2

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 06-11-2017

Heard learned counsel for the parties.

2. At the very outset, learned counsel for the State, when called upon to assist, was not able to do so on the basis of running page of the court brief despite notice to this effect being printed daily in the cause list.

3. This has led to unnecessary impediment in a judicial proceeding. The Court was, thus, of the opinion that cost be imposed. However, on apology tendered by learned counsel for the State, refrains from doing so.



4. The matter relates to payment of retrial dues which have been withheld on account of the stand of the State authorities that the petitioner not having cleared the first departmental examination still managed to get the benefit of ACP, which was thus found recoverable from his post retrial dues.

5. On 19.09.2017, a Co-ordinate Bench of this Court had observed that learned counsel for the petitioner must examine the position as to how the petitioner can earn the benefit contrary to the accepted position that right through his service period he never passed any departmental examination despite grant of AC P being linked to the same. Today also the petitioner is not in a position to satisfy the Court that despite not having passed the departmental examination, the benefit of the ACP can be availed by him. Further, in view of the material brought on record in the counter affidavit filed by the State, there is indication of the petitioner having passed first and second departmental examination being inserted through interpolation in the service book, which has also not been rebutted by the petitioner and which amounts to a fraud being committed, the Court does not find any occasion to interfere in the matter.



6. In view thereof, the writ petition stands disposed off with liberty to the petitioner to agitate the matter before the authorities concerned, in accordance with law.

(Ahsanuddin Amanullah, J)

N.H./-

AFR/NAFR	NAFR
CAV DATE	N/A
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