

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12699 of 2008

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Ram Pravesh Roy, son of Late Raj Ballam Rai, resident of Mohalla New Punaichak, House of Raju Ranjan Yadav, Near Indira Bhawan, P.S. Shastri Nagar, District Patna.

.... Petitioner

Versus

1. The State of Bihar
2. Principal Secretary, Rural Development Department, Govt. of Bihar, Patna.
3. Chief Engineer, Rural Development Special Zone, Harding Road, Irrigation Bairak No. 2, Patna.
4. Superintending Engineer, Samagra Yojna and Aniveton Circle, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Satish Chandra Jha 3, Advocate

For the Respondents : Ms. Divya Verma, AC to AAG 3

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 17-07-2017

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

2. This writ petition has been filed for grant of First and Second Assured Career Progression (ACP) after allowing his application for exemption from passing the departmental examination and thereby making payment of all consequential benefits.

I.A. No. 4355 of 2017

3. This interlocutory application has been filed with the prayer for amendment of the relevant portion of the prayer in the writ petition by quashing the order contained in Memo No. 11636 dated 07.10.2015 issued under the signature of the Secretary, Rural Work



Department, Government of Bihar, Patna (Annexure-B to the counter affidavit) by which his application for exemption from passing the departmental examination has been rejected.

4. Having regard to the nature of the prayer, the interlocutory application is allowed and the petitioner is permitted to make appropriate amendment in the writ petition and the same will be treated as part of the writ petition.

5. Learned counsel for the petitioner makes a short submission to the effect that having completed 24 years of service as Correspondence Clerk, the petitioner retired from service with effect from 31.12.2004, but has wrongly been denied ACP for the solitary reason that he did not pass the departmental examination and the

6. Learned counsel for the respondents refers to the counter affidavit to reiterate the reason for denial of ACPs to the petitioner to the effect that he did not clear the departmental examination.

7. Having heard learned counsel for the parties and on careful consideration of the materials available on record, I am of the view that the respondents have not acted in accordance with the settled law and unjustifiably denied the benefit of First and Second ACPs to the petitioner. This Court have repeatedly noticed the distinction between the regular promotion and grant of ACP, the latter



being a personal enhancement of pay scale as anti-stagnation measure without the benefit of a higher post. Reference is made to the decision of the Division Bench of this Court in the case of *Avinash Chandra Singh vs. The State of Bihar & Ors., 2012(1) PLJR 663*; and a decision of the Coordinate Bench of this Court in the case of *Mahendra Baitha vs. The State of Bihar and Ors., 2016(3) PLJR 945*.

8. In the above circumstances, the impugned order dated 07.10.2015 (Annexure-B to the counter affidavit) is set aside with a direction to the respondents to consider the case of the petitioner for grant of First and Second ACPs and pass a fresh order in accordance with law within a period of four weeks from the date of receipt/production of a copy of this judgment. The writ petition accordingly stands allowed.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.07.2017
Transmission Date	N.A.

