

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15226 of 2008

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Prakash Chandra Bhushan, son of Late Navichand Ram @ Navi Chand Ram,
resident of village Khetalpur P.S. Aurai District Muzaffarpur, presently residing at
Mohalla Raja Bazar , Motihari P.S. Motihari District East Champaran

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police Bihar Patna
3. The Deputy Inspector General of Police (Human Rights) Bihar, Patna
4. The Superintendent of Police, East Champaran (Motihari)

.... Respondent/s

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Appearance :

For the Petitioner/s : Dr. Mrityunjaya Kumar Gautam

For the Respondent/s : AC to PAAG No. 2

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CORAM: HONOURABLE MR. JUSTICE RAKESH KUMAR

ORAL JUDGMENT

Date: 24-03-2017

1. Heard Dr. Mrityunjay Kumar Gautam, learned counsel
for the petitioner and learned AC to PAAG No. 2.

2. The petitioner, who took voluntary retirement with
effect from 1.5.2007 after completion of 33 years of continuous
service has approached this court invoking its writ jurisdiction under
Article 226 of the Constitution of India with a prayer to quash an
order contained in Memo No. 5545/P dated 6th December 2005
issued under the signature of respondent no. 3/ the Deputy Inspector
General of Police (Human Rights) Bihar, whereby the name of the



petitioner for grant of benefit under the Assured Career Progression Rules 2003 (hereinafter referred to as the “A.C.P.”) was rejected.

3. Learned counsel for the petitioner submits that the ground on which prayer for grant of benefit of A.C.P. was rejected is not sustainable. He submits that it is true that petitioner attempted to pass Departmental Accounts Examination but he remained unsuccessful. According to learned counsel for the petitioner for granting benefit under the A.C.P. scheme such condition is not condition precedent and on this very ground it was not required to be rejected. Learned counsel for the petitioner has placed reliance on an order of this court reported in 2013 (1) PLJR 68 (Murali Manohar Lall vs The State of Bihar through Principal Secretary – cum – Commissioner, Co-operative Society, Bihar, Patna & Ors.).

4. Learned State Counsel opposing the prayer submits that the claim for grant of benefit under the A.C.P. was rejected in the year 2005 itself and thereafter petitioner continued in service and finally in the year 2007 he took voluntary retirement. Even though he took voluntary retirement in the month of May 2007 after more than one year he has filed the present writ petition with a prayer to quash an order which was passed in the year 2005. According to learned State Counsel, as provided under the Rules of A.C.P. passing of Departmental Accounts Examination was mandatory. Since the



petitioner had not passed , his claim for grant of such benefit was rightly rejected. In sum and substance it has been argued that if the claim of the petitioner was rejected by a reasoned order in the year 2005 itself and he without assailing the said order continued in service and took voluntary retirement in the month of May 2007, there is no reason to entertain the present writ petition which has been filed much after one year from the date of voluntary retirement.

5. Besides hearing learned counsel for the parties I have perused the materials available on record including the order passed in Murali Manohar Lall Case (Supra) . In the said case this court had considered the point that if the rule regarding the scheme prescribes passing of examination as mandatory requirement, there was no reason to entertain the claim for benefit of A.C.P. However, the said writ petition was disposed of on the plea that similarly situated persons were granted such benefit and liberty was granted to file representation. In the present writ petition it is evident that claim of the petitioner was rejected in the year 2005 and he continued in service thereafter and he finally took voluntary retirement in the month of May 2007 and even thereafter he did not raise any objection. Only after more than one year the present writ petition was filed. Considering the fact that petitioner has not fulfilled the requirement for getting the benefit , there is no reason to pass any



favourable order.

6. The writ petition stands dismissed.

(Rakesh Kumar, J)

Praful/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28-03- 2017
Transmission Date	NA

