# IN THE HIGH COURT OF JUDICATURE AT PATNA

**Civil Review No.541 of 2016**
**IN**
**Civil Writ Jurisdiction Case No. 10161 of 2011**

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Dudhnath Choudhary, aged about 66 years, son of Late Sheo Balak Choudhary, resident of village Mahuari, P.S. Piro, District Bhojpur.

.... .... Petitioner

Versus

1. The State of Bihar through the Commissioner-cum- Secretary, Water Resources Department, Sinchai Bhawan, Patna.
2. The Director, Provident Fund Directorate, Bihar, Pant Bhawan, Patna.
3. The District Provident Fund Officer, Supaul at Saharsa.
4. The Chief Engineer- Mechanical, Water Resources Department, 72/84, New Punai Chak, Patna- 800023.
5. The Superintending Engineer, Mechanical Circle, Birpur, District- Supaul.
6. The Executive Engineer, Irrigation Mechanical Division, Birpur, District Supaul.
7. The Accountant General, Bihar, Birchand Patel Path, Patna.

.... .... Respondents

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**Appearance :**
For the Petitioner/s : Mr. Ajay Kumar, Adv.
For the Accountant General: Mr. Uday Kumar, Adv.
For the State : Mr. Sanjay Kumar, A.C. to A.A.G.-4

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**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**
ORAL JUDGMENT
**Date: 28-06-2017**

Heard learned counsel for the parties.

This application has been filed for review of the order 25.09.2014 passed in C.W.J.C. No. 10161 of 2011, wherein the Court has recorded as follows:-

> "*So far the entitlement of A.C.P., the petitioner is not entitled to the same, as has not passed Accounts Examination, nor he had ever claimed exemption from the passing of the accounts examination which is sine qua non for entitlement of ACP and as such, the claim of the petitioner is completely misconceived and misplaced and no maintainable*."

In this review application, the petitioner has brought on record the application dated 11.11.1998, making prayer for granting exemption on account of crossing the age of 50 years.

A counter affidavit has been filed, wherein the State has not denied the filing of the application for granting exemption, but the plea has been taken that it is not in proper format. The stand of the State is completely *de-hors* to the earlier stand and it shows that the State has not brought the actual fact to the notice of this Court.

In such view of the matter, the order dated 25.09.2014 is modified to the extent that the application of the petitioner for granting exemption will be considered on merit and the authority will take decision in accordance with law within a period of three months from the date of receipt/production of a copy of this order.

Accordingly, this review application is disposed of.

**(Shivaji Pandey, J)**

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| AFR/NAFR | N.A.F.R. |
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