

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12780 of 2017

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1. Kameshwar Prasad Yadav, Son of Late Lakshman Prasad Yadav, Resident of Village- Bara Telpa, P.S.-Chapra Town, District-saran.
 2. Jay Prakash Shrivastava, Son of Late Upendra Kumar Sinha, Resident of Village-Safiyabad, P.S.-Baikunthpur, District-Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Department, of Finance, Main Secretary, Department of Finance, Mian Secretariat, Patna.
2. Principal Secretary, Road Construction Department, Government of Bihar, Visheshwariya Bhawan, Bailey Road, Patna.
3. Superintending Engineer, Saran Road Circle, Road Construction Department, Hajipur.
4. Executive Engineer, Road Division, Road Construction Department, Chapra (Saran).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kishore Kumar Thakur, Adv.
Mr. Rajessh Kumar, Adv.
Mr. Braj Kishore Singh, Adv.
For the Respondent/s : Mr. Rajeev Shekhar, AC to GA-13

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 04-01-2018

Heard Mr. Kishore Kumar Thakur, learned counsel appearing for the petitioners and Mr. Rajeev Shekhar, learned Assisting Counsel to Government Advocate No.13 for the State.

The petitioners in this writ petition have questioned the policy decision of the State bearing No.163 dated 8.1.2016, whereby they have been denied the benefits of Assured Career Progression, inter alia, on grounds that they are compassionate appointees and not direct recruits. The petitioners are also aggrieved by the consequential order bearing Memo No.526 dated 3.6.2016 of the respondent no.3, Superintending Engineer, Saran Road Circle, Road Construction Department, Hajipur



whereby the Assured Career Progression granted to them has been cancelled and they have been given Assured Career Progression in a lower scale.

Counsel for the parties are in agreement that this issue along with some other issues was raised and contested in a batch of writ petitions heard analogous with a matter arising from **CWJC No.18433 of 2016 (Shashi Shekhar Ambastha vs. The State of Bihar)** and this Court while quashing the policy decisions put to challenge in the said batch of writ petitions in so far as it had a restrictive application, has given direction to the authorities concerned to consider the case of the petitioners for Assured Career Progression with effect from their respective due dates. The batch of writ petitions were allowed with the following directions:

“For the discussions aforementioned, the resolutions of the State Government in its Finance Department bearing No. 163 dated 8.1.2016 in so far as it restricts the benefit of Assured Career Progression to the Graduates exclusively together with its resolution bearing No. 5276 dated 30.6.2016 in so far as it restricts the benefit of Assured Career Progression to only petitioners in C.W.J.C.No. 18015/2011 and C.W.J.C.No. 16346/2011 as well as the opinion of the Secretary (Expenditure), Department of Finance, contained in his letter bearing No. 8083 dated 7.10.2016 at Annexure P-11 to restrict the benefit under resolution dated 8.1.2016 and 30.6.2016 to direct recruits exclusively and to outclass compassionate appointees, those appointed by absorption as well as the Accounts Clerks holding the post by upgradation, from its applicability, are patently discriminatory and are accordingly quashed and set aside.

As a result, all consequential actions taken by the controlling departments against these petitioners are quashed and set aside. The State in its Finance Department together with the controlling departments of the petitioners are directed to accord the benefit of Assured Career Progression to these petitioners as



extended to the petitioners in C.W.J.C.No. 18015/2011 and C.W.J.C.No. 16346/2011 from the due date in accordance with law within a period of three months from the date of receipt/ production of a copy of this order together with all consequential benefits.”

Having considered the submissions and the pleadings on record, this writ petition is allowed in terms of the judgment and order of this Court passed in the case of **Shashi Shekhar Ambastha** (supra) and the relief allowed therein would govern the case of the present petitioners as well and as a consequence the order bearing Memo No.526 dated 3.6.2016 of the Superintending Engineer, Saran Road Circle, Road Construction Department, Hajipur is hereby quashed and set aside.

Since the orders impugned in this writ petition in so far as it has restricted application, has already been quashed by the judgment and order passed in the case of **Shashi Shekhar Ambastha** (supra) there is no requirement to pass a separate order to that effect.

The writ petition is allowed but with no order as to costs.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10-01-2018
Transmission Date	NA

