

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.435 of 2016

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1. Amar Kumar Mishra Son of Girwardhari Mishra Village + P.O. Rasulpur, P.S. Amnaur, District - Chapra (Saran)
2. Narendra Kumar Dubey Son of Basudeo Dubey Village - Mura, P.O. Tarwar, P.S. Aamnaur, District - Chapra (Saran)
3. Shivjee Yadav Son of Late Banarji Yadav Village - Vishunpura Khurd, P.O. Safri, P.S. Ekma, District - Chapra (Saran)
4. Brahmdeo Rai Son of Ram Lal Rai Village - Siswa, P.O. Kerwa, Via - Isuapur, P.S. Isuapur, District - Chapra (Saran)
5. Birendra Kumar Singh Son of Late Deo Kumar Singh Village - Totha, P.O. Dubaulee, P.S. Panapur, District - Saran

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Panchayati Raj Department, Government of Bihar, Patna
2. The District Magistrate/Collector, Chapra (Saran), Bihar
3. The District Panchayat Raj Officer, Chapra (Saran), Bihar
4. The BDO, Marhaura, Saran, Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Adv.

For the Respondent/s : Mr. Manoj Kumar, A.C. to S.C.12

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

4 29-03-2018 Heard Mr. Ajay Kumar Singh learned counsel for the petitioner and Mr. Manoj Kumar, A.C. to S.C.12 for the State.

The five petitioners herein pray for grant of A.C.P. benefits under the Assured Career Progression Scheme framed by the respondent-State from the date the benefit became due to them. It is the complaint that despite representations, the grievance has not merited consideration.

Mr. Manoj Kumar learned counsel for the State in reference to the proceedings of the Departmental Promotion Committee



chaired by the District Magistrate, Saran at Annexure-C and the order dated 15.01.2018 of the District Panchayat Raj Officer addressed to the Block Development Officer at Annexure D submits that they explain the case of the petitioners in the backdrop of the claim raised. He informs that while the petitioner(s) Amar Kumar Mishra, Brahmdeo Rai and Birendra Kumar Singh have been granted the A.C.P. benefits from the dates due, while the A.C.P. benefit to Narendra Kumar Dubey has been kept in abeyance in view of the pending departmental proceeding as manifest from the details present at running page 68 item No.2 which was initiated on 25.7.2008 i.e prior to the date on which the said progression became due i.e. 13.12.2008, in so far as the 5th petitioner Shivjee Yadav is concerned it is because his salary in the suspension period has not been paid even though the suspension order dated 18.03.2002 was revoked on 14.8.2003 by the District Magistrate that it is on such confusion that the benefit has been denied. He admits that Shivjee Yadav superannuated on 31.5.2017.

I have heard learned counsel for the parties and I have perused the records. The explanation of the respondent in so far as the rest of the petitioners are concerned is acceptable. While the petitioners Aman Kumar Mishra, Brahmdeo Rai, Birendra Kumar



Singh have been granted 'ACP' benefits, it is on account of pendency of disciplinary proceeding against Narendra Kumar Dubey that his claim has been rejected. These decisions suffer no infirmity but in so far as the case of Shivjee Yadav is concerned, in my opinion in absence of any adverse order against the petitioner and in absence of any material with the respondents to withhold such benefit from him, the decision to deny the benefit of progression to Shivjee Yadav is arbitrary and dehors the A.C.P. Scheme. An order of suspension which also was revoked subsequently, certainly cannot form a reason for such for denial of A.C.P. benefit and accordingly this writ petition is disposed of with the direction to the District Magistrate, Saran to take appropriate steps for grant of A.C.P. benefit to Shivjeet Yadav from the due date and which decision be taken within 3 months from the date of receipt/production of a copy of this order.

The writ petition is disposed of with the direction aforementioned.

(Jyoti Saran, J)

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