

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.3606 of 2011

=====

Ram Vilas Rajak, S/o Late Ramdeo Rajak, R/o Village Abgil, P.O. Paharpur, P.S.
Medni Chouki, District Lakhisarai

.... Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Panchayati Raj, Old Secretariat, Patna,
2. The District Magistrate, Munger,
3. The District Panchayati Raj Officer, Munger,
4. The Block Development Officer, Jamalpur, Munger,
5. The Block Development Officer, Kharagpur, Munger.

.... Respondents

=====

Appearance:

For the Petitioner/s : Mr. Uday Pratap Singh and
Mr. Raj Kumar Choudhary, Advocates.

For the Respondent/s : None.

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

Date: 18-01-2018

Heard learned counsel for the petitioner.

2. No one appears on behalf of the State.

3. Earlier vide order dated 14.01.2016 this Court had taken note of the statement made by learned AC to AAG No. 6 that a Counter Affidavit was filed on behalf of respondents no. 2 and 3 in the year 2011 itself. Since the said Counter Affidavit was not on the record, office was directed to examine and place it on the record if it has already been filed. The office notes says that Counter Affidavit on behalf of respondents no. 2 and 3 has not yet been filed as per computer status report at Flag – ‘A’.



4. Learned counsel representing the petitioner submits that no Counter Affidavit has been served upon him on behalf of respondents no. 2 and 3. However, learned counsel submits that the only ground on which the petitioner was deprived of the First and Second Assured Career Progression (A.C.P) benefits was that a departmental proceeding was initiated against him vide order dated 02.07.2007 as contained in Memo No. 315 by the District Magistrate, Munger. Learned counsel submits that the petitioner had become entitled to get the First time bound benefit which was later on replaced by A.C.P. benefit w.e.f. 12.03.1994 itself when no departmental proceeding was pending against him. He has categorically stated in Paragraph 8 of the Writ Application that one Subhash Murmu, against whom also a departmental proceeding was pending at the time of consideration of A.C.Ps by the Screening Committee, has been considered for First A.C.P. and the benefits thereof have been given to him.

5. Learned counsel further submits that in terms of the government decision as contained in resolution no. 7457 dated 11.09.2002 it has been provided that where the departmental proceeding has not been concluded even after expiry of two years from the date of the meeting of Departmental Promotion Committee, the Appointing Authority has got power to give *ad hoc* promotion to



such employees in respect of whom a sealed cover procedure has been adopted. Learned counsel further submits that this resolution of the government has been considered in the case of **Lallan Prasad Singh Vs. The State of Bihar & Ors.,** reported in **2009 (4) PLJR 556.**

6. Learned counsel further submits that the departmental proceeding had ultimately culminated in punishment by which the petitioner had been reverted to his initial pay scale but the order of punishment has been set aside by this Court in CWJC No. 5502/2014 and the matter has been remitted to the Disciplinary Authority to proceed further in accordance with law. Thereafter, nothing further has happened.

7. Since no one is representing the State and Counter Affidavit on behalf of respondents no. 2 and 3 is also not available on the record and this case is a seven years old Writ Application pending before this Court, I am of the considered opinion that instead of keeping the Writ Application pending further it would be just and proper at this stage to direct the District Magistrate, Munger to consider the case of the petitioner for grant of First and Second A.C.P. benefits which he is claiming in accordance with the relevant rules / scheme in force at the relevant time on this behalf when the petitioner claims to have become entitled to be considered. The petitioner shall file a representation to the District Magistrate, Munger within a period



of one month from today and thereupon the District Magistrate, Munger shall be obliged to pass a reasoned and speaking order on the representation of the petitioner keeping in view the relevant rules relating to grant of time bound benefit / A.C.P. / M.A.C.P., the government resolution and the judicial pronouncements on this subject. Such a reasoned order must be passed within a period of three months from the date of receipt of the representation together with a certified copy of this order and the decision taken by the District Magistrate, Munger should also be communicated to the petitioner within a period of one month thereafter.

8. In case the petitioner is found entitled for the financial progression benefits, the same will be paid to the petitioner within a period of two months from the date of the decision taken by the District Magistrate, Munger. In case of denial of the claims of the petitioner he will have a remedy against the same in accordance with law.

9. The Writ Application is disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	19.01.2018
Transmission Date	N/A

