

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1248 of 2009

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Bihar Rajya Zila Karamchari Mahasangh through its Secretary Samastipur Unit,
Parasnath Prasad, son of late Dharamdeo Prasad, resident of Village Kursaha, P.S
Mohiuddin Nagar, District Samastipur

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Finance, Government of Bihar, Patna
3. The Principal Secretary, Panchayat Raj Department, Government of Bihar,
Patna
4. Director, Panchayati Raj, Government of Bihar, Patna
5. Dy. Director-cum-Dy. Secretary, Panchayati Raj Department, Bihar, Patna
6. Deputy Development Commission Samastipur
7. Chairman, Zila Parishad, Samastipur
8. Chief Executive Officer, Zila Parishad, Samastipur
9. Additional Chief Executive Officer, Zila Parishad, Samastipur

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Singh
For Zila Parishad	:	Mr. Prabhat Kumar Singh
For the State	:	Mr. Ajay Kumar Rastogi, AAG 10 Mr. Shushil Kumar Singh, AC to AAG10

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 18-01-2018

Heard learned counsel for the petitioner and learned
counsel the State as well as Zila Parishad.

This writ petition has been filed by the Bihar Rajya Zila
Karamchari Mahasangh for grant of benefit of ACP to the
employees of Zila Parishad, Samastipur in terms of the benefit
which has been given to the employees of the State of Bihar
placing reliance of Rule 7 of the Bihar Panchayat Samiti and Zila
Parishad (Service Condition) Rules, 1964 wherein it has been



mentioned that condition of service will be the same as that of employee of State Government. Hence they have claimed that they are entitled to the benefit of ACP in terms of ACP Rule 2003 and new MACP Rule, 2010.

Zila Parishad has filed its counter affidavit through Deputy Development Commissioner-cum-Executive Officer, Zila Parishad, Samastipur where it has been mentioned that Zila Parishad in its meeting dated 13.11.2013 approved unanimously to extend the benefit of ACP to the employees of the Zila Parishad, Samastipur and sent the same for approval to the Deputy Development Commissioner-cum-Executive Officer, Zila Parishad, Samastipur and has also attached the letter dated 12.8.2014 issued by Special Executive Officer, Panchayati Raj Department, Bihar, Patna wherein it has been mentioned that the department of Bihar Panchayati Raj has deliberated the matter with the Finance Department, final opinion has been arrived that the Zila Parishad may extend the benefit of ACP subject to assessment of financial capacity, if it is found that Zila Parishad has sufficient fund to bear the financial burden.

The Deputy Development Commissioner-cum-Executive Officer, Zila Parishad, Samastipur has written a letter dated 9.9.2014 to the Panchayati Raj Department for granting the



approval for extending the benefit of ACP to the employees of the Zila Parishad.

Till date, it appears, that, no action has been taken by the authority of the Panchayati Raj but learned counsel for the State submits that if they intend to extend the benefit of ACP from internal resources they can extend it but subject to the condition that they will have no any right to claim demand from the State Government for making payment of ACP to its employee. Certainly the ACP ipso facto does not apply automatically to the Corporation or other Government body but it can be applied subject to the availability of fund with Zila Parishad. It appears that Zila Parishad unanimously has taken a decision for extending the benefit of ACP.

In such circumstances, this Court is of the view that State Government cannot object the extension of benefit of ACP to the employees of Zila Parishad.

In such view of the matter, Principal Secretary, Panchayat Raj Department, Government of Bihar, Patna is directed to consider the application of Deputy Development Commissioner-cum-Executive Officer, Zila Parishad, Samastipur and take decision accordingly, within a period of three months from the date of receipt/production of this order.



With the aforesaid observation and direction this writ
petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.1.2018
Transmission Date	NA

