IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.15202 of 2014

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Basudeo Yadav Son of Late Sri Lal Yadav Resident of Mohalla - Dujara Chak, in front of Model St. Michael High School, Budha Colony, Patna-1.

.... **Petitioner**

Versus

1. The State of Bihar.
2. The Principal Secretary, Building Construction Department, Government of Bihar, Patna.
3. The Engineer in Chief, Building Construction Department, Government of Bihar, Patna.
4. The Chief Engineer, South Bihar Building Construction Department, Government of Bihar, Patna,
5. The Superintending Engineer, Patna Building Circle, Building Construction Department, Government of Bihar, Patna.
6. The Accountant General, Bihar, Patna. .... **Respondents**

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Appearance :

For the Petitioner : Mr. R.N.Singh, Advocate

For the State : Mr. Ramadhar Singh, GP-25

For the AG, Biahr : Dr.Anand Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 10-07-2018

Heard learned counsel for the parties.

Petitioner’s claim for grant of benefits of the 3rd Assured Career Progression (herein after referred to as ‘the ACP’) has been resisted by assigning reason that he did not complete thirty years in service.

The petitioner superannuated on 30.6.2012 from the post of Senior Accounts Clerk in the office of the Superintending Engineer, Patna Building Circle, Patna. It is his case that he was initially appointed in the work charge establishment as blue printer

(Nil Mudrak). The benefits of 3rd ACP is denied by assigning reason that the petitioner was promoted to the post of Junior Accounts Clerk from the post of Nil Mudrak on 4.9.1979. Therefore, only two ACP benefits, i.e., 1st ACP & the 2nd ACP can be allowed to him.

Office order dated 10.9.1979 is on the record in the instant proceedings as Annexure 1 to the writ petition. Bare perusal of the same, it appears that petitioner's appointment is a fresh appointment by way of absorption, on the post of Junior Accounts Clerk after considering his qualification for the said post. It is the specific case of the petitioner that his appointment on the post of Junior Accounts Clerk is a fresh appointment by virtue of office order dated 10.9.1979 and prior to that he was having the status of work charge employee. His submission is worthy of consideration. Since the promotional avenue for the post of Blue Printer (Nil Mudrak) which is the basic post was to the post of Tracer; and from the post of Tracer the next promotional avenue is Draftsman second. Language of order dated 4.9.1979 also shows that the petitioner has been appointed afresh under the said order.

For the reasons indicated herein above, the reason assigned by the respondents for denying him the benefits of 3rd ACP is unsustainable. This Court will observe that the respondents may consider petitioner's claim for grant of 3rd ACP having regard to the fact that the petitioner was appointed afresh as Junior Accounts Clerk vide Office order dated 10.9.1979. Let the final decision in this regard be taken by the respondents in accordance with law and if any consequential benefit arises from such consideration, the petitioner would be entitled for the same. The entire exercise be completed within a period of eight weeks from the date of receipt/production of a copy of this order.

The writ petition is allowed to the extent indicated above.

(Madhuresh Prasad, J)

Shashi.

AFR/NAFR	NAFR
CAV DATE	NA
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