

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22357 of 2014

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Sachidanand Singh, Son of Late Murlidhar Singh, Resident of Village - Shivkund, P.S- Mufassil, District - Monghyr.

... .. Petitioner/s

Versus

1. The State of Bihar through Director, Department of Primary Education, Bihar, Patna.
2. Director, Department of Primary Education, Government of Bihar, Patna.
3. District Superintendent of Education/District - Education Officer, Bhagalpur.
4. Principal, Rajkya uchch Bunidaya Vidyalaya, Bahalpur, P.S- Teghra, District - Begusarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Pramod Kumar, Advocate
For the Respondent/s	:	Mr. Birju Prasad, GP 13
		Mr. Ashok Kumar, AC to GP 13

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL JUDGMENT

Date : 13-09-2018

Heard learned counsel appearing on behalf of the petitioner and learned counsel appearing on behalf of the respondents.

Mr. Pramod Kumar, learned counsel representing the petitioner submits that the case of the petitioner was recommended for grant of Assured Career Progression (ACP) vide Annexure-2. From perusal of Annexure-2 it is evident that Area Education Officer, Bhagalpur is the controlling officer of the petitioner and he has considered the service record of the petitioner and recommended his case on completion of 24 of years of service for ACP. The recommendation contained in Annexure-2 is dated



30.08.2007. Learned counsel further submits that the District Superintendent of Education has also requested the Director, Primary Education vide Annexure-3 to consider the case of the petitioner for appropriate decision for grant of ACP.

The respondents have filed counter affidavit raising manifold objections, *inter alia*, on the issue of consideration of case of petitioner for grant of exemption from passing departmental examination on attaining the age of 50 years but unfortunately no decision one way or the other on the recommendation for grant of ACP was taken. So far as the claim of the respondents that the petitioner has not filed any application for grant of exemption from passing departmental examination on attaining the age of 50 years, the Court fails to understand such justification. If the respondents have the power to grant exemption on attaining the age of 50 years then it is not necessary for the petitioner to file such application, rather it could have been exercised by the respondents *suo motu* in the absence of any application for grant of such exemption under the circular of the State Government. Since no decision was taken by the respondent authorities on the claim of the petitioner for grant of ACP the respondents are hereby directed to take appropriate decision on the claim of the petitioner for grant of ACP in accordance with the



ACP Rules. While taking such decision the respondents are required to examine if the petitioner is otherwise eligible for grant of exemption from passing departmental examination under the circular applicable on attaining the age of 50 years. Appropriate decision will be taken by the respondents considering the case of the petitioner for grant of ACP in terms of the recommendation contained in Annexures-2 and 3.

Final decision in this regard shall be taken within a maximum period of four months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

mrl./-

AFR/NAFR	NAFR
CAV DATE	N.A.
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