

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23617 of 2013

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1. SUDHANSU KUMAR S/O LATE JAY NARAYAN SINGH R/O- C-1, ROAD, NO. 07, SRI NAGAR, P.S- SHASHTRI NAGAR, DISTT- PATNA.
 2. LAXMAN RAM S/O BACHU RAM R/O FLAT NO. 101, JAGRITI APPT RAM NAGARI MORE (ASHIANA), P.S- RAJIV NAGAR, DISTT- PATNA
 3. ASHOK KUMAR S/O RAJENDRA PRASAD R/O MOH- JAY PRAKASH NAGAR, P.S- JAKKANPUR, DISTT- PATNA
 4. SHAILENDRA KUMAR SINGH S/O LATE SITA RAM SINGH R/O VILL- NIMI, P.S- SHEKHOPUR SARAI, DISTRICT- SHEKHPURA.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Principal Secretary, Animal And Fisheries Resources Deptt., Bihar, Patna.
3. Special Secretary, Animal And Fisheries Resources, Deptt., Bihar, Patna.
4. Secretary, Animal And Fisheries Resources Deptt., Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mukesh Kumar
For the Respondent/s	:	Mr. Avnish Nandan Sinha

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 16-04-2018

Heard learned counsel for the parties.

2. This writ petition under Article 226 of the Constitution of India has been filed for commanding the respondent-authorities to consider and grant 1st and 2nd ACP



to the petitioners which has been granted to several senior and junior to the petitioners with all monetary benefits w.e.f. the due dates.

3. Briefly stated, the case of the petitioners is that petitioners were appointed by the State Government, Department of Animal Husbandry and Fisheries, Patna, Bihar vide memo dated 11.07.1990 under the signature of Secretary of the department. The petitioners were appointed subsequent to recommendation made by Bihar Public Service Commission in the cadre of Bihar Animal Husbandry Service Class-II in the pay scale of Rs. 940-1660/- on the post of Assistant Dairy Extension Officers and their services has also been confirmed.

4. The department of Animal Husbandry and Fisheries Resources, Patna, Bihar published final gradation list under notification dated 19.09.2012 of the Officers of Bihar Animal Husbandry Class-II Employees in which the name of petitioners appeared at serial nos. 233, 234, 235 and 236 and thereafter seniority list was published under notification dated 07.11.2013, in which the name of the petitioners are at serial nos. 233, 234, 235 and 236. The



Government of Bihar had implemented ACP benefit scheme to its employees and according to which after completion of 12 years and 24 years of continuous service and having all the eligibility for regular promotion, employee was entitled to grant of 1st and 2nd ACP for upgradation and all employees persons senior and junior to petitioners have been allowed 1st and 2nd ACP with all monetary benefits but benefit of 1st and 2nd ACP has been denied to the petitioners without any valid reason or explanation.

5. Petitioners filed several representations before the competent authority for grant of 1st and 2nd ACP but in spite of repeated representation petitioners have been denied grant of 1st and 2nd ACP without any rhyme and reason. The petitioners had also filed representation before the grievance redressal cell on 28.11.2011 and 20.08.2013 but their grievance has not been redressed as yet.

6. A counter affidavit has been filed on behalf of respondents in which it has been stated that petitioners were appointed on the post of Assistant Dairy Extension Officers in the pay scale of Rs. 940-1660/- with certain terms and conditions in columns of the appointment order which



stated pay scale of Assistant Dairy Extension Officer as Rs. 850 to Rs. 1360/- but in special circumstances same has to be sanctioned provisionally which may be changed after reconsideration.

7. It has been submitted that as per conditions mentioned in the appointment letters of petitioners in respect of their pay scale, the concerned file was sent for the requisite consent of Finance Department. The Finance Department has made certain queries and the said file was returned to the department to clarify queries made by Finance Department and department has clarified queries of the Finance Department and again sent the concerned file to the Finance Department for seeking necessary consent and approval.

8. It has further been submitted that vide resolution no. 10770 dated 30.12.1981 of the Finance Department, the revised pay scale of Assistant Dairy Extension Officer was Rs. 850-1360/- w.e.f. 01.04.1981 and vide resolution no. 1368 dated 03.02.1982 of the Finance Department pay scale of Rs. 940-1660/- was made admissible for the post of Assistant Dairy Extension Officer under Gahan Prakhanda



Vikas w.e.f 01.04.1981. Petitioners were appointed on 11.07.1990 in the pay scale of Rs. 940-1660/- and thereafter they are being paid the revised pay scale of Rs. 940-1660/- from 01.01.1996 and thereafter from 01.01.2006 and in 01.01.2016.

9. After hearing the parties and considering the materials available on record, this Court finds that petitioners were appointed on 11.07.1990 in the pay scale of Rs. 940-1660/- and they are being paid the replacement scale in subsequent pay revision by the State government and as such there is no ambiguity about the pay scale of petitioners and they have been appointed in the pay scale of Rs. 940-1660/-. They cannot be denied ACP on the ground that in column 7 it was stated that initially pay scale of Assistant Dairy Extension Officer was Rs. 850-1360/- but resolution issued by Finance Department dated 03.02.1982 makes it clear that the pay scale of Assistant Dairy Extension Officer is Rs. 940-1660/-, which was made effective from 01.04.1981, as such there is no confusion or ambiguity as far as pay scale of petitioners are concerned and they are entitled to 1st ACP and 2nd ACP after



completion of 12 years and 24 years of service and denial of same is without any valid reason.

10. Considering the aforesaid facts and circumstances of the case, the writ petition is allowed. The respondent-authorities are directed to grant petitioners 1st and 2nd ACP from due date, if they are found otherwise eligible.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	25.04.2018
Transmission Date	N.A.

