

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.5972 of 2014

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Upendra Nath Mishra Son Of Jadu Nandan Mishra Resident Of Village- Kona, Post Office Bhadwa Bazar, Police Station- Rafiganj, District- Aurangabad, At Present Residing At Satyendra Nagar, Block Colony, Post Office, Police Station And District- Aurangabad (Bihar)

.... Petitioner/s

Versus

1. The State Of Bihar Through The Chief Secretary, Government Of Bihar, Old Secretariat, Patna
2. The Secretary Cum Commissioner, Water Resources Department, Government Of Bihar, Old Secretariat Patna
3. The Under Secretary, Water Resources Department, Old Secretariat, Patna
4. The Superintending Engineer, Sone Canal Moderisation Circle, Indrapuri, Dehri On Sone (Rohtas)
5. The Treasury Officer, Aurangabad, Bihar
6. The Accountant General, Bihar, Birchand Patel Path, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Akhilesh Kumar Sinha, Advocate
For the State : Mr. Ravi Ranjan, AC to SC 22

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 31-07-2018

Supplementary counter affidavit filed today on behalf of respondents no. 2 and 3 be kept on record.

2. Heard learned counsel for the petitioner and the respondents.

3. Even though this Court on the earlier writ petition filed by the petitioner bearing C.W.J.C. No. 3969 of 2009 has specifically held that the punishment of censure awarded to the petitioner lost its effect in 1991 and that if eligibility for promotion is reckoned from that date, punishment lost its effect in 1994 but the respondents are



still depriving the petitioner his benefit due under the second ACP by calculating the requisite period with effect from three years after 1994. The order passed by the respondent no. 2 is therefore, not in accordance with the order passed by this Court in C.W.J.C. No. 3969 of 2009 in favour of the petitioner, which has never been challenged by the respondent authorities and is binding inter parties.

4. In view of such position, entitlement of the petitioner for grant of benefits in respect of second ACP has to be determined and made available considering his eligibility in respect of length of service with effect from 1994.

5. Let the authorities take a final decision in respect of grant of second ACP taking into consideration the petitioner's entitlement for grant of second ACP on completion of 12 years with effect from 1994 and the admissible benefits under such scheme be paid to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

6. The writ petition is allowed to the extent indicated hereinabove.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

