

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15965 of 2014

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Baidyanath Chaudhary S/O Sri Jagdish Chaudhary, R/o Village- Khor
Laguniya Suryakanth, P.S.- Samastipur, Distt.- Samastipur

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, General Administrative Department, Govt. of Bihar, Patna
2. The Secretary, Water Resources Department, Government of Bihar, Patna
3. The Commissioner, Darbhanga Division
4. The District Magistrate, Samastipur
5. The Chief Engineer, Water Resources Department, Samastipur
6. The Superintending Engineer, Water Resources Department, Samastipur

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ashok Kr. Choudhary, Adv. Mr. Akshansh Ankit, Adv.
For the Respondent/s	:	Mr. Kinkar Kumar, SC9 Mr. Zaki Haider, AC to SC9

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 03-10-2018

Heard learned counsel for the parties.

In this case, the petitioner is seeking exemption from the date of filing of the application i.e. 11.1.2007 though he has been granted exemption from 2011 vide Annexure-12, he has been granted all M.A.C.P. with effect from 6.7.2011 but, M.A.C.P. was not granted earlier to the petitioner on account of failure to pass the departmental examination. After attaining the age of 50 years, he filed an application for exemption in the year 2007 but, finally he has been granted exemption in the year 2011, claim has been made on the basis of letter dated 28.8.2009 (Annexure-1/1) which postulates the entitlement of exemption will be the date of filing of



the application whereas the State has pointed out that the petitioner has filed his application in the year 2007 and his case will be governed by the Circular of 1992 which postulates that the exemption will be applicable from its order.

Learned counsel for the petitioner submits that the order has been passed in the year 2011 but, this circular has come into existence in the year 2009, so, the petitioner may be governed by this Circular.

The Circular cannot be given retrospective effect as the cause of action has taken place in favour of the petitioner in the year 2007, 1992 Circular admittedly will apply. Maximum the petitioner can claim the benefit after existence of the Circular dated 28.8.2009 which makes it clear that all the matter with respect to grant of exemption will be considered by the letter dated 28.8.2009. So this Circular cannot be put the clock back but, makes the petitioner entitled to the benefit from the date of existence of this letter.

Accordingly, this Court directs that proper correction should be made about the entitlement of the petitioner from the date of issuance of letter dated 28.8.2009.

Another anomaly has been pointed out by the petitioner that the order dated 6.4.2013 (Annexure-11) shows that the person



in a correspondent clerk level will get the grade pay of Rs. 4800 in the third M.A.C.P. but, the petitioner has been given the grade pay in the third M.A.C.P. of Rs. 4600. The State has submitted that the claim made by the petitioner about his entitlement of grade pay of Rs. 4800 cannot be accepted as he has rightly been given.

Accordingly, this Court also directs that necessary correction with respect to the petitioner, who is standing at serial no.6 vide Annexure-12, be corrected and with regard to grade pay, the authority will examine the entitlement of the petitioner of grade pay of Rs. 4800/- and will take a decision accordingly within a period of three months from the receipt/production of a copy of this order.

With the aforementioned observation and direction, this writ application is disposed of.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	05.10.2018
Transmission Date	

