

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17338 of 2013

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Upendra Nath Sah, son of Late Ram Pratap Singh, resident of Nauzar Ghat, Diwan
Mohalla Patna - 8

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Government of Bihar, Patna.
2. Chief Engineer, Ganga Bridge Project Wing, Road Construction Department,
Bisheshwaraia Bhawan, Bailey Road, Patna.
3. Executive Engineer, Ganga Bridge Project Division, Gulzarbagh, Patna – 7.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Mukund, Advocate

For the Respondent/s : Mr. Rakesh Kr Samrendra, Advocate

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 20-06-2018

Heard learned counsel for the petitioner and the
respondent State.

2. The specific case of the petitioner with respect to
withdrawal of the benefits granted under the ACP Scheme on account
of non-passing of departmental examination is that in respect of the
others who were similarly situated as the petitioner and whose benefit
under the ACP was also withdrawn under the same order dated
09.03.2009 bearing no 109 issued by the Chief Engineer, Road
Construction Department, the benefit has subsequently been granted.
One Md. Shakil Ahmad whose name figures at serial no. 7 of the
office order dated 09.03.2009 was granted the benefit after allowing
him exemption from appearing for the exams.



3. It is the specific case of the petitioner in the writ petition that even though the petitioner's claim for exemption has been forwarded by the Department but no such recommendation was sought for in the case of the petitioner whereas in the case of the said Md. Shakil Ahmad who is identically situated as the petitioner, exemption was granted resulting in restoration of his benefits under the ACP granted earlier under office order dated 09.03.2009.

4. The stand of the respondents in the counter affidavit is that as per the Government circular which apparently is referring to the order of the Energy Department dated 18.02.2011 bearing No. 729, the petitioner's case can still be considered for grant of exemption. Since the petitioner has retired in 2009 itself this Court would only observe that the claim of the petitioner for grant of exemption on similar ground as granted to the said Md. Shakil Ahmad, cannot be kept pending inordinately.

5. In view of such considered position, this Court would grant liberty to the petitioner to submit a comprehensive application raising his claim for grant of exemption seeking parity with the said Md. Shakil Ahmad before the Secretary-cum-Commissioner, Road Construction Department within a period of 2 weeks from today. On filing of such comprehensive claim, the Secretary-cum-Commissioner, Road Construction Department would be obliged to



pass a reasoned and speaking order dealing with the claim of the petitioner within a period of 4 weeks thereafter and if the claims are found admissible, the petitioner would be entitled to all consequential benefits.

6. The writ petition is disposed off with the aforesaid direction.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

