

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20154 of 2016

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1. Anant Kumar Sinha, son of Late Anjani Kumar Sinha, Resident of Mohalla-Dhantolia, Ward No.26, Town and P.S.- Dehri-on-Sone, District- Rohtas.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna.
4. The Secretary (Expenses), Department of Finance, Govt. of Bihar, Patna.
5. The Assistant Secretary, Department of Finance, Govt. of Bihar, Patna.
6. The Assistant Secretary, Minor Water Resources Department, Govt. of Bihar, Patna.
7. The Executive Engineer, Minor Irrigation Division, Kaimur at Mohania.
8. The Accountant General, A.G. Office (Mahalekhakar Bhawan), Birchand Patel Path, Patna.
9. The District Account Officer, Sasaram, Rohtas, Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. S.B.K. Manglam, Adv.

Mr. Abhay Shankar Singh, Adv.

For the Respondent-State : Mr. Deepak Sahay Janumar, AC to AAG-4

For the Respondent-AG : Mr. Anjani Kumar Sharan, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 22-06-2018

Heard Mr. S.B.K. Manglam, learned counsel appearing for the petitioner along with Mr. Abhay Shankar Singh, the Advocate on record, Mr. Deepak Sahay Janumar, learned Assisting Counsel to Additional Advocate General No.4 for the State and learned counsel for the Accountant General.

The petitioner prays for the following reliefs:

- (i) To issue an appropriate writ/orders to set aside the letter No.8083 dated 01.10.2016 (Annexure-9) of the Secretary (Expenses), Department of Finance,



Government of Bihar, whereby he has restrained the benefit of Government Resolution No.163 dated 08.01.2016 (for grant of financial upgradation under ACP Rules, 2003) on unreasonable and arbitrary basis only to petitioner of the case by which the same was granted to the account clerks (upheld up to Supreme Court), which is in teeth of Government's own litigation policy as well.

- (ii) For issuing a consequential writ or mandamus directing the concerned authorities to give benefits of resolution No.163 dated 08.01.2016 with all consequential benefits to petitioner also, as he had got required qualification and stood on similar footing as that of some other similarly situated persons, who have already been granted such benefits.
- (iii) Since the petitioner has already superannuated, thus only seeks consequential pecuniary benefits and being in the evening of his life pray for early disposal of case since similarly situated other persons have already obtained such benefits.

Mr. S.B.K. Manglam, learned counsel appearing for the petitioner makes reference to a judgment of this Court passed in



CWJC No.18433 of 2016 (Shashi Shekhar Ambastha vs. the State of Bihar) to submit that the orders impugned herein were also the subject matter of the said writ petition which was heard analogous with a batch of cases and this Court having considered the rival submissions has been pleased to allow the writ petition(s). He further informs that although a number of writ petitions were heard analogous with the case of **Shashi Shekhar Ambastha** (supra) but the State in its wisdom has chosen to prefer appeal only against some of them, however, no interim order has been passed thereon.

It is taking note of the submission made by Mr. Manglam, learned counsel appearing for the petitioner that this Court on 31.5.2018 had adjourned the matter until today when Mr. Deepak Sahay Jamuar, learned Assisting Counsel to Additional Advocate General No.4 though appears on behalf of the State but does not dispute the legal position existing as advanced by Mr. Manglam.

A copy of the judgment passed in the case of **Shashi Shekhar Ambastha** (supra) and analogous has been produced by Mr. Manglam and a perusal thereof would confirm that the batch of writ petitions were allowed with the following direction:

“For the discussions aforementioned, the resolutions of the State Government in its Finance Department bearing No. 163 dated 8.1.2016 in so far as it restricts the benefit of Assured Career Progression to the Graduates exclusively together with its resolution bearing No. 5276 dated 30.6.2016 in so far



as it restricts the benefit of Assured Career Progression to only petitioners in C.W.J.C.No. 18015/2011 and C.W.J.C.No. 16346/2011 as well as the opinion of the Secretary (Expenditure), Department of Finance, contained in his letter bearing No. 8083 dated 7.10.2016 at Annexure P-11 to restrict the benefit under resolution dated 8.1.2016 and 30.6.2016 to direct recruits exclusively and to outclass compassionate appointees, those appointed by absorption as well as the Accounts Clerks holding the post by upgradation, from its applicability, are patently discriminatory and are accordingly quashed and set aside.

As a result, all consequential actions taken by the controlling departments against these petitioners are quashed and set aside. The State in its Finance Department together with the controlling departments of the petitioners are directed to accord the benefit of Assured Career Progression to these petitioners as extended to the petitioners in C.W.J.C.No.18015/2011 and C.W.J.C.No.16346/2011 from the due date in accordance with law within a period of three months from the date of receipt/ production of a copy of this order together with all consequential benefits.”

Having heard learned counsel for the parties and taking note of the legal position settled by this Court in the case of **Shashi Shekhar Ambastha** (supra) and analogous cases and also taking note of the uncontested submission of Mr. Manglam that the judgment of this Court continues to hold the field, this writ petition is allowed in terms of the judgment passed in the case of **Shashi Shekhar Ambastha** (supra) as well as the relief granted thereunder which would govern the case of the present petitioner. The time allowed therein would be the time stipulated in the present judgment



for granting consequential relief to the petitioner.

Since the policy decisions put to question herein, has already been quashed by this Court while allowing the batch of writ petitions which was heard analogous with **Shashi Shekhar Ambastha** (supra), I do not find any requirement for passing any separate order to such effect.

The writ petition is allowed in the aforesaid terms with no order as to costs.

(Jyoti Saran, J)

SKPathak/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26-06-2018
Transmission Date	NA

