

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.61 of 2018

In
Civil Writ Jurisdiction Case No.16914 of 2015

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Shambhu Narayan Lal, son of Late Surajdeo Lal, resident of Village - Piprahi,
P.S. - Raghopur, Dist. - Supaul.

... .. Appellant/s

Versus

1. The State of Bihar.
2. The Secretary, Water Resource Department, Govt. of Bihar, Patna.
3. The Chief Engineer, Water Resource Department, Govt. of Bihar, Patna.
4. The Executive Engineer, Irrigation Division, Raghopur, Dist. - Supaul.
5. The Accountant General, Bir Chand Patel Path, Patna, Bihar.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Gautam Bose, Sr. Adv. Mr. Arvind Kumar
For the Respondent/s	:	Mr. Anjani Kumar -AAG-4

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

4 09-07-2018 The petitioner had filed the writ petition with the
following prayer :-

*“This writ application is being filed for
issuance of appropriate writ/writs,
order/orders, direction/directions to the
respondent authorities for payment of
arrear of salary on the basis of pay scale of
6th pay revision which are due for the
period of 01/01/2006 to 31/07/2008 to the
petitioner and further prayer is to direct the
respondents to grant benefits of the pay
scale of ACP and its entire consequential*



benefits to the petitioner, according to Rule 2003.”

As far as grant of benefit of 6th pay revision is concerned, the learned Writ Court addressed the issue by taking note of the fact that on grant of 6th pay revision and on account of unutilized leave, the petitioner was entitle to a sum of Rs. 86,998/- against which the petitioner was liable to pay to the department a sum of Rs. 2,85,670/- towards the penal rent on account of non-vacation of quarter after his retirement. The issue of grant of 6th pay has been decided by the learned Writ Court by holding that the petitioner is not entitled to any benefit of payment which was required to be recovered from him towards the payment of penal rent. After having done so, the question of grant of ACP to the petitioner consequent upon coming into force of Rules, 2003, which was the 2nd prayer in the writ petition, was not at all adverted to, considered. The 2nd prayer with regard to grant of ACP having not been decided, it is a fit case where for considering this prayer for grant of ACP, the matter should be remanded to the learned Writ Court for consideration.

Accordingly, we allow this appeal in part, restoring C.W.J.C. No. 16194 of 2015 to the extent of considering the prayer of the petitioner only for grant of ACP only, as claimed in



the writ petition and nothing more.

The writ application shall remain dismissed, except for the prayer of ACP, for which the matter has been remanded to the learned Writ Court.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

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