

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.2002 of 2016
IN
Civil Writ Jurisdiction Case No. 7994 of 2014**

=====

Bijay Kumar Lal Das, Son of Late Bishnu Lal Das Resident of Village + Post -
Narpatganj, District - Araria.

.... Appellant/s

Versus

1. The State of Bihar through its Chief Secretary, Bihar, Patna.
2. The Divisional Commissioner, Purnea.
3. The District Officer, Araria.

.... Respondent/s

=====

Appearance :

For the Appellant/s : Mr. Awadhesh Kumar Mishra
Mr. Arun Kumar Mandal
For the Respondent/s : Mr. MD.KHURSHID ALAM, AAG12
Ms. Nutan Sahay, AC to AAG 12

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 26-02-2018

Seeking exception to an order dated 16.09.2016 passed by
the learned Writ Court in CWJC No. 7994 of 2014 this appeal has
been filed under Clause 10 of the Letters Patent.

Petitioner filed the writ petition and it was his grievance
that for grant of A.C.P. on the post of Revenue Karamchari the service
rendered by him as Amin is not being counted. It was the case of the
respondents that the post of Revenue Karamchari is a promotional
post and, therefore, the benefit cannot be granted. However, on a
perusal of the documents and the material available on record we find



that the pay scale for both the posts, i.e. Amin and Revenue Karamchari are identical in nature. There is no difference in the pay scale and as the pay scales are identical in nature and there is no promotional post, there is no reason as to why the benefit cannot be conferred. That apart, from the documents that have come on record that the appellant was initially appointed as Amin and thereafter he was absorbed as Revenue Karamchari and in the case of various other similarly situated employees the benefits have been granted as is detailed by the petitioner in reply to the counter affidavit. Once the appellant was appointed as Amin and his services were absorbed in the cadre of Revenue Karamchari after counting the service rendered as Amin, there is no reason as to why the period of service rendered as Amin cannot be counted for the purpose of granting A.C.P.

In paragraph-6 of the supplementary affidavit filed by the petitioners in CWJC No. 7994 of 2014 in which the present appellant was one of the writ petitioners, it is clearly stated that in the District of Katihar vide order dated 17.03.2012 (Annexure-5) benefits have been granted to similarly situated employees. This contention is not rebutted by the respondents. On the contrary, it is the contention of the respondents that as the post of Revenue Karamchari is a higher post in view of the circular of the State Government the benefit cannot be granted. However, from the revision of pay scale on



implementation of the 6th Pay Commission's recommendation, it is seen that the pay scale of Revenue Karamchari is Rs.3050-4590/- and that of an Amin is Rs.3200-4900/- and Muharir is getting pay scale of Rs.4000-6000/-. That being so, it is not known as to how it is contended that post of Revenue Karamchari is a promotional post and pay scale is different from that of Amin. No promotion rules or other documents are produced in support thereof.

Accordingly, we allow this appeal and direct that as has been done in the District of Katihar the case of the petitioner be reconsidered for grant of A.C.P. after counting the service rendered by him as Amin.

The appeal stands allowed and disposed of.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

mr.l./-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	06/03/2018
Transmission Date	

