

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.12456 of 2011

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Md.Kamal Khan, Age 61 Years, S/O Late Md. Zamaluddin Khan, R/O Vill.-
Bantara, P.S.- Deokund, Distt.- Aurangabad

.... Petitioner/s

Versus

1. The State Of Bihar Through the Commissioner-Cum-Secretary, Water Resources Dept. Sinchai Bhawan, Patna
2. The Chief Engineer, Water Resources Department, Dehri, Distt.- Rohtas
3. The Superintending Engineer, Sone Canal Modernization Circle, Dehri, Distt.- Rohtas
4. The Executive Engineer, Sone Barrage, Division, Indrapuri, Distt.- Rohtas
5. The Accountant General, Bihar, Birchand Patel Path, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. VISHWA NATH RAM, Adv.
For the State : Mr. Pawan Kumar, AC to GA-1
For the Accountant General: Mr. Chaitanya Swaroop, Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL JUDGMENT
Date: 03-07-2018

This petitioner having superannuated from service on 30.06.2010 and having already received benefit of 1st ACP with effect from 09.08.1999 and the benefit of 2nd ACP with effect from 24.06.2005 has moved this Court for a direction to the respondents to grant him first time bound promotion with effect from 24.06.1981 and second time bound promotion with effect from 15.06.1993. The petitioner has also raised dispute with respect to the scale of pay applicable to him at the relevant time when he was granted the benefit of ACPs.

In response to the averments made in the writ



application, the respondents have filed a counter affidavit in which in paragraph 6 and 7 they have stated as under:-

“6. That it is relevant to mention here that the petitioner initially appointed on 15.06.1968 as Amin in the pay scale of Rs. 85-110/- in work charge establishment. The said pay scale of Rs. 260-408/- with effect from 24.06.1981. vide letter no. 1405 dt. 16.06.1981 issued by the Chief Engineer, Water Resources Department Bhagalpur. The pay scale of Rs. 260-408/- against revised into the scale of Rs. 730-1080/- with effect from 01.04.1981, vide letter no. 2367 dt. 24.11.1980 issued by Executive Engineer, Irrigation Division No. 1, Luxmipur, Munger. During adjustment made to the post of Accounts Clerk in the higher scale of Rs. 260-408/- from the lower scale of Rs. 190-254/- the basic scale of petitioner increases from Rs. 220/- per month (scale Rs. 190-254) to Rs. 260/- per month (Scale Rs. 260-408) on 01.03.81 and again the scale of the petitioner increases from Rs. 555/- (Scale Rs. 535-765) per month to Rs. 730/- per month (scale Rs. 730-1080/-) on 01.04.1981.

7. That it is further stated that since the petitioner was adjustment to the post of Accounts Clerk from the post of Amin with effect from 01.03.1981 and as doing so the petitioner was financially benefited by Rs. 60/- (more than 12.5% of basis pay on 01.03.1981) and Rs. 175/- (more than 12.50 of basic pay on 08.04.1981 only during one month hence he was not entitled for first time Bound Promotion in accordance to the para-II (ii) of resolution no. 10770 dt. 30.12.81 (annexure-A). After completion of twenty five years of service on



15.06.1993 the petitioner has been granted second Time Bound promotion with effect from 15.06.1993 vide letter no. 3070 dt. 24.09.2011 issued by the Chief Engineer, Water Resources Department Dehri in accordance with para-II (ii) of resolution no. 10770 dt. 30.12.1981 (Annexure-A) and Memo no. 1503 dated 27.03.1987 issued by the Finance Department, Govt. of Bihar, Patna.”

After filing of the counter affidavit by the respondents the petitioner has sought to challenge Annexure-B to the counter affidavit. The grievance of the petitioner is that he has been given second time bound promotion in the scale of Rs.1400-2600 whereas it should have been in the scale of Rs.1500-2750. The petitioner has also assailed the decision of the respondents as disclosed in the counter affidavit whereunder the petitioner has been held entitled for first time bound promotion on the ground that he had received more benefits on adjustment from the post of Amin to Accounts clerk. Petitioner has raised yet another issue of benefit of third ACP with effect from 01.01.1991 with all consequential benefits.

On going through the averments made in the writ application, counter affidavit and the I.A. available on the record as also after hearing the parties, this Court does not find any reason to interfere with Annexure-B to the counter affidavit. The facts stated in



Annexure-B are not in dispute. The petitioner was adjusted on the post of Accounts Clerk and by virtue of that adjustment he had received monetary benefits as stated in Annexure-B to the counter affidavit which was more than the benefits which he would have been entitled to in normal promotion. He was also given the benefit of revised pay scale with effect from 01.01.1986 and from the date of his first appointment, on completion of 25 years, he got the benefit of second time bound promotion. The issues raised by the petitioner with regard to the pay scales and grant of first time bound promotion and second time bound promotion much prior the date after he superannuated from service seems to be totally misconceived.

The writ application has no merit. It is, accordingly, dismissed.

(Rajeev Ranjan Prasad, J)

Arvind/-

AFR/NAFR	
CAV DATE	
Uploading Date	09.07.2018
Transmission Date	

