

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20327 of 2010

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Yadunandan Kumar @ Brijnandan Kumar, S/O Late Hari Charan Prasad,
Adopted S/O Makun Paswan, R/O Vill.- Saidpur, P.S.- Bakhtiarpur, Distt.-
Patna, Now Residing At Mohalla- South Mandiri Khatpula, P.O. - G.P.O.,
P.S.- Budha Colony, Distt.- Patna

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Commandant General, Home Guard and Fire, Chhajubagh, Patna
3. The State Fire Officer, Bihar, Old Secretariat, Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mukul Prasad

For the Respondent/s : Mr. Rajesh Kumar No.2 Gp19

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 27-06-2018 The petitioner by way of the present writ petition has

prayed for grant of the benefits of first and second Assured Career
Progression Scheme upon completion of 12/24 years of service
since he has not been granted any promotion.

The learned Counsel for the petitioner submits that
the respondents have denied the aforesaid benefits to the petitioner
merely on the ground of the petitioner being made to retire
compulsorily. The respondents, in their counter affidavit, have
submitted that the prayer of the petitioner for grant of benefits of
Assured Career Progression Scheme is not permissible in the eye
of law and for that the respondents have relied upon the Finance
Department regulation dated 30.12.1981 as well as Rule 726 of the



Bihar Police Manual, 1978.

I have heard the learned Counsel for the petitioner and perused materials on record. I find that the respondents have failed to show any provision of law to the effect that in case punishment of compulsory retirement is inflicted on an employee, such employee would be debarred from getting the benefits of the Assured Career Progression Scheme.

It is a well settled law that promotion is a vertical movement from lower stage to higher stage whereas the grant of Assured Career Progression Scheme is bereft of any such movement from lower post to higher post and is granted while the employee remains stagnated on the initial post on which he had been appointed. In such view of the matter, the benefits of first ACP and second ACP can not be denied to the petitioner herein.

For the reasons mentioned herein above, the writ petition is allowed and the respondents are directed to grant the aforesaid benefits of first and second ACP to the petitioner within a period of ten weeks from today.

(Mohit Kumar Shah, J)

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