

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.33 of 2017

In

Civil Writ Jurisdiction Case No.14657 of 2013

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Yogendra Sharma, Son of Late Suraj Deo Sharma, Resident of Mohalla - Jagdeo Nagar 'Krishna Sadan', P.S. - Arrah Nawada, District - Bhojpur.

... .. Appellant

Versus

1. The State of Bihar through its Secretary, Minor Irrigation, Vikash Bhawan, New Secretariat, Bihar, Patna.
2. The Chief Engineer, Minor Irrigation, Bhagalpur.
3. The Superintending Engineer, Minor Irrigation, Circle, Saharsa.
4. The Executive Engineer, Minor Irrigation, Saharsa Division.

... .. Respondents

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Appearance :

For the Appellant/s : Mr. Md. Ataul Haque

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date : 20-04-2018

Heard learned counsel for the appellant and counsel for the State.

Prayer of the petitioner in the writ application was for a direction to grant to the appellant benefit of A.C.P. since he had worked for 36 years.

Admitted position is that the appellant had not passed the departmental examination and Rule 4(v) of the A.C.P. Rules 2003 mandates that even to earn A.C.P., eligibility for regular promotion including passing of departmental examination is a must.



Since the petitioner, who is the appellant before this Court, has admittedly not passed the departmental examination right through his career then the expectation to be given the benefit of A.C.P. merely on the passage or length of service cannot accrue to his advantage. The learned single Judge has committed no error in dismissing the writ application.

Learned counsel for the appellant has drawn the attention of this Court to an order dated 20.04.2015 passed in L.P.A. No. 1260 of 2012 where benefit and direction for grant of A.C.P. was given by the Division Bench. However, the Court notices that in the said order, the Division Bench has noted that there is no dispute that the writ petitioner had cleared the departmental examination. In other words, even the Division Bench was aware of the mandate of clearing departmental examination for drawl of benefit of A.C.P.

We do not find any infirmity in the order of the learned single Judge. Appeal stands dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Pawan/-

AFR/NAFR	N.A.F.R.
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