

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.767 of 2017

In

Civil Writ Jurisdiction Case No.5021 of 2011

-
-
1. The State Of Bihar.
 2. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna.
 3. The Additional Secretary, Department of Finance, Govt. of Bihar, Patna.
 4. The Deputy Secretary, Department of Finance, Govt. of Bihar, Patna(Treasury).
 5. The District Magistrate, Patna.
 6. The District Magistrate, Gaya.
 7. The Treasury Officer, Secretariat Treasury, Vikash Bhawan, Patna.
 8. The Treasury Officer, Gaya, District Gaya.
 9. The Sub-Treasury Officer, Sherghati, District- Gaya.

... .. Appellant/s

Versus

1. Anit Kumar Singh, S/o Late Panchanand Singh, R/o Ramavtar Apartment, Ashiyana Ramnagri More, P.S.- Rajiv Nagar, District- Patna.
2. Raj Kumar, Son of Late Prem Chandra, R/o Village- Bakarganj, Moharampur, P.S.- Pirmahore, District- Patna.
3. Vijay Kumar Sinha, Son of Late Bindeshwari Prasad Sinha, R/o Diet Campus, Mohalla- Panchayati Akhara Gaya P.S.- Kotwali, District- Gaya.
4. Rana Lalan Narain Singh, Son of Late Jaydutt Narain Singh, R/o Mohalla- Chand Chaura, Gaya, P.S.- Civil Line, District- Gaya.

... .. Respondent/s

Appearance :

For the Appellants : Mr. Amaresh Kumar Sinha, AC to GA 1

For the Respondents : Mr. Siya Ram Shahi, Advocate.
Ms. Shally Kumari, Advocate.

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 27-09-2018

1. Feeling aggrieved and dissatisfied with the
impugned judgment and order passed by the learned
Single Judge dated 25.10.2016 in C.W.J.C. No. 5021 of



2011 by which the learned Single Judge has allowed this writ petition and set aside the order/notification contained in Letter No. 2856 dated 06.04.2016 (Annexure-18 to the main petition) and has held that the original writ petitioner shall be entitled to the benefit in terms of Bihar State Employees Service Condition (Assured Career Progression Scheme) Rule 2003 (hereinafter referred as ACP) w.e.f. 09.08.1999 in the scale of Rs. 5300-9000 in first ACP and the scale of Rs. 6500-10,500 as second ACP after completion of 24 years of service with due interest, the State has preferred the present LPA under Clause 10 of the Letter Patent.

2. We have heard the learned counsel for the respective parties at length and perused the impugned judgment and order passed by the learned Single Judge.

2.1. At the outset, it is required to be noted that as such the issue has already been decided by a Bench of this Court in C.W.J.C. No. 817 of 2007 (i.e. *Prabhat Shankar Poddar vs. The State of Bihar and Ors.*) which



came to be confirmed by a Division Bench of this Court and it was held to not to grant benefit of ACP to those employees who were appointed on compassionate ground.

3. However, it appears that thereafter the State came out with a Notification/Order contained in Letter No. 2856 dated 06.04.2016 by which it was decided that the persons appointed on compassionate ground shall not be entitled to ACP. It appears that the aforesaid order was absolutely in teeth of the earlier decision of the learned Single Judge confirmed by the Division Bench. We are also of the opinion that there should not be any discrimination in granting the benefit of ACP, once a person is appointed in the department, may be on compassionate ground.

3.1. Any person appointed, may be on compassionate ground, on completion of certain years, as per the Assured Career Progression Scheme, Rule 2003, shall be entitled to the first and second ACP as per the Rule 2003.



4. Under such circumstances, as such, no error has been committed by the learned Single Judge in setting aside the order/notification contained in Letter No. 2856 dated 06.04.2016 and holding that the original writ petitioner shall be entitled to ACP as per Rule 2003, we are in complete agreement with the view taken by the learned Single Judge and no interference is called for by this Court in intra court appellate jurisdiction.

5. Under such circumstances, the present appeal is dismissed.

(Mukesh R. Shah, CJ)

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.09.2018
Transmission Date	28.09.2018

