

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1601 of 2016

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Md. Hanif, Son of Md. Sadik, Resident of Village - Gangua Mathia, P.S. -
Patherwa, District - Deoria (U.P.).

.... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department,
Government of Bihar, Patna.
2. The Chief Engineer, Water Resources Department, Government of Bihar, Patna.
3. The Superintending Engineer, Flood Control & Drafting Circle, Patna.
4. The Accountant General, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Adv.

For the Respondent/s : Mr. Deepak Sahay Jamuar, A.C to AAG4
Mr. Uday Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 15-05-2018

Heard Mr. Manoj Kumar learned counsel for the petitioner and
Mr. Deepak Sahay Jamuar, learned A.C to AAG 4.

The petitioner having superannuated on the post of Fitter-cum-Jeep Driver with effect from 31.08.2013 that it is after superannuation that he moved this Court seeking a scale of Rs.5000 - 8000 which is meant for special category but chose to withdraw the writ petition to move departmentally. The order of this Court permitting the petitioner to pursue his departmental remedy is at Annexure-4 to the writ petition. Since the representation of the petitioner has not resulted in disposal that he has again returned to this Court.

Prima facie this writ petition is not maintainable because for the same relief the petitioner did approach this Court but has chosen to



withdraw the writ petition to pursue the matter departmentally. If the departmental authorities have not chosen to dispose of the representation it does not give a fresh cause of action even on merits. What is seen from the counter affidavit at paragraph 5 is that the petitioner has already been given his first and second Assured Career Progression in the scale of 4000-6000 and 4500-7000 respectively from the due date and in so far as the scale in special category is concerned, it is to be provided at 5 % of the sanctioned strength of the Driver. Since, according to the respondents, the strength does not fulfill the criteria that the scale has not been granted to him. It is not in dispute that what should lawfully be granted to the petitioner, has been given to him and he has superannuated to his satisfaction. It is after superannuation on 31.08.2013 that after one year he chose to come before this Court without raising any claim before the department. Even otherwise a special privilege is reserved for those found special and in case administratively the respondents have not found petitioner entitled to the benefit, this Court would not have a second opinion.

The writ petition is disposed of.

(Jyoti Saran, J)

Bibhash

AFR/NAFR	NAFR
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