

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20374 of 2010

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HARENDRA NATH SINHA S/O LATE RAM LAGAN SINGH R/O GATE
NO. 28, RAJAPUR, DISTT.- PATNA

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. THE COMMISSIONER-CUM-SECRETARY DEPARTMENT OF
INDUSTRIES, PATNA, BIHAR
3. DIRECTOR, DEPARTMENT OF INDUSTRIES, PATNA, BIHAR
4. SECRETARY, RURAL DEVELOPMENT DEPARTMENT, PATNA
5. DIRECTOR, RURAL DEVELOPMENT DEPARTMENT, PATNA
6. DISTRICT DEVELOPMENT COMMISSIONER, SAMASTIPUR
7. GENERAL MANAGER, MODEL BLOCK SMITH WINE SHOP, PUSA
ROAD, SAMASTIPUR, DISTT.- SAMASTIPUR

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan
For the Respondent/s : None

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 27-07-2018

Heard the learned counsel for the petitioner. Nobody
appears on behalf of the State.

2. The short facts of the case are that the petitioner was
appointed as an Accountant in the Health Department on
05.10.1955 whereafter, he was transferred to the Industries
Department. The petitioner is stated to have passed the Hindi
noting and drafting exam as well as the accounts examination in
the year 1958, as is apparent from Annexure-2 to the writ
petition. The petitioner is stated to have superannuated with
effect from 31.01.1994.



3. The petitioner has assailed the order dated 11.11.2009 whereby and whereunder the case of the petitioner for grant of the benefits of Assured Career Progression has been rejected on two grounds i.e. firstly that there was a break in service tenure on account of the petitioner having been convicted and secondly the petitioner has not passed the accounts examination.

4. The learned counsel for the petitioner has referred to Annexure-2 to the present writ petition to show that the petitioner has passed the accounts examination and not only that, he has also passed the final accounts examination in both the papers. As far as the issue of break in service is concerned, the learned counsel for the petitioner has submitted that after the petitioner had filed a revision against the order of conviction, the order of conviction was set aside and thereafter, the department itself by an order dated 08.06.2002 has directed for regularizing the period of break in service, as is apparent from Annexure 3 to the present writ petition.

5. I have gone through the counter affidavit filed by the Respondents and I find that the Respondents have not controverted the factum of the petitioner having passed the accounts examination, in proof whereof, the petitioner has annexed Annexure -2 to the writ petition. I further find that the



order dated 08.06.2002 passed by the Department, regularizing the services of the petitioner, as has not been disputed by the Respondents and the Respondents have merely stated that the claim of the petitioner is barred by delay and laches inasmuch as the petitioner had approached this Court after retirement and he had never raised his claim for grant of the benefits of A.C.P. during his service tenure. To this, the learned counsel for the petitioner has submitted that initially, the writ petition of the petitioner was dismissed on the ground of delay and laches whereafter, the petitioner had filed an appeal bearing L.P.A. No. 684 of 2006 and the learned Division Bench of this Court by an order dated 03.02.2007 had set aside the order of the learned Single Judge and remitted the matter back to the learned Single Judge for consideration of the writ petition on merits and the writ court, by an order dated 07.08.2008, had remanded the matter to the authorities for adjudication and that is how, the impugned order dated 11.11.2009 has come into being.

6. From the aforesaid discussion, it is clear that both the grounds taken by the respondents to non-suit the petitioner are non-existent and factually not correct, hence, the order dated 11.11.2009 passed by the Deputy Development Commissioner, Samastipur is liable to be interfered with and is accordingly



quashed.

7. For the reasons mentioned hereinabove, the writ petition is allowed and the Respondents are directed to grant the benefits of Assured Career Progression to the petitioner within a period of six weeks from today and thereafter, pay the consequential monetary benefits within a further period of four weeks.
8. It is needless to state that the pensionary benefits would be revised accordingly.

(Mohit Kumar Shah, J)

ajay gupta/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	02.08.2018
Transmission Date	NA

