

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11668 of 2010

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1. Dhyani Bharti S/O Late Harihar Gosain R/O Vill Shankarpur, P.O.Jalpura, Via
Haspura, Distt-Aurangabad, Retired Store Keeper, Irrigation Department, State Of
Bihar, Patna

.... Petitioner/s

Versus

1. The State Of Bihar Through Chief Secretary Government Of Bihar, Old
Secretariat, Patna
2. The Principal Secretary, Personal And Administrative Reforms Department
Government Of Bihar, Old Secretariat, Patna
3. The Joint Secretary, Personal And Administrative Reforms Department
Government Of Bihar, Old Secretariat, Patna
4. The Principal Secretary, Irrigation Department Government Of Bihar, Old
Secretariat, Patna
5. The Principal Secretary, Finance Department Government Of Bihar, Old
Secretariat, Patna
6. The Engineer-In-Chief, Irrigation Department Government Of Bihar, Old
Secretariat, Patna
7. The Chief Engineer, Irrigation Department Government Of Bihar, Old
Secretariat, Patna
8. The Superintending Engineer Baraj Circle, Birpur, Supaul
9. The Executive Engineer, Western Embankment Division Nirmali, Supaul

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. M. M. Parbat, Sr. Advocate.
Mr. Abhay Kumar Singh

For the State : Mr. R.B.N. Singh, AC to GA 10

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 19-03-2018

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

In the present case, the petitioner is seeking relief of first
time bound promotion as well as benefit arising from the Assured
Career Promotion (hereinafter referred to as ACP).

The petitioner was appointed in the year 1962 on Class IV



post in the Canal Division. The petitioner having requisite qualification was appointed as orderly peon under Executive Engineer, Tirhut Canal Division I, Muzaffarpur. The petitioner was granted promotion as Treasury Guard with effect from 29.1.1972 and lastly he was promoted as Store Keeper with effect from 7.5.1986. As per claim of the petitioner he has passed Hindi Noting Drafting examination conducted by the department on 20.11.1994 and he has attained the age of superannuation while discharging the duty of Store Keeper on 30.9.2001 from the office of the Executive Engineer, Western Embankment Division, Nirmaly, Supaul.

Learned counsel for the petitioner submits that petitioner is entitled to the first time bound promotion counting from 7.5.1986 on the post of Store Keeper as 12 years matured on 1998 and after 1999, scheme of ACP has been enforced.

But the counter affidavit speaks that petitioner is not entitled to the benefit of ACP on account of the fact that in terms of the circular issued by the Finance Department the person shall not be granted promotion or ACP unless employee passes the accounts examination. In the case of the petitioner as he has not passed the accounts examination, so grant of benefit does not arise.



Learned counsel for the petitioner has filed reply to the counter affidavit attaching result of candidates who have passed the accounts examination on 30.4.2001 where the name of the petitioner is standing at sl.no.29 from where it appears that petitioner has passed his first stage and second stage of accounts examination.

Learned counsel for the State submits that the letter itself shows that those who have not passed the second stage of examination will not be entitled to the benefit of ACP as has been specifically mentioned in the said letter. If the petitioner failed to clear accounts examination, then certainly he will not be granted benefit of ACP.

Learned counsel for the petitioner put emphasis that he has not only passed first stage examination but also passed second stage examination.

If the petitioner has passed the departmental examination, certainly he is entitled to time bound promotion on the scale of Store Keeper as benefit under ACP Scheme as it appears that in 2001 before superannuation he has passed the accounts examination, he cannot be deprived of benefit of ACP.

Learned counsel for the State has further pointed out that petitioner has not passed the third paper examination. From the



result it does not appear that petitioner has passed the third paper of examination.

Learned counsel for the petitioner has further submitted that petitioner is entitled to the benefit in terms of the result as others have been granted promotion.

Be that as it may, the department should examine the fact whether petitioner has cleared all papers of accounts examination as required and if it is found that he has cleared the examination he should be granted time bound promotion as well as benefit arising from ACP Scheme petitioner was promoted to Store Keeper in the year 1986. If the petitioner is entitled to relief of enhancement of scale it is needless to say that the petitioner will also be entitled to the consequential benefit. All process must be completed within five months from the date of receipt/production of a copy of this order.

With the aforesaid observation and direction this writ petition is disposed of.

Vinay/-

(Shivaji Pandey, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.3.2018
Transmission Date	NA

