

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19088 of 2016

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Ashok Kumar Singh S/o Late Ragho Prasad Singh resident of Market Flat No-39,
Dalmianagar (New Market), Rohtas, Bihar-821305

.... Petitioner

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna
2. The principal Secretary, Water Resources Department, Govt. of Bihar, Patna
3. The principal Secretary, Department of Finance, Government Bihar, Patna
4. The Secretary (Expenses), Department of Finance, Govt. of Bihar. Patna
5. The Assistant Secretary, Dept. of Finance, Govt. of Bihar. Patna
6. The Assistant Secretary, Minor Water Resources Department, Govt. of Bihar, Patna
7. The Executive Engineer, Minor Irrigation Division, Kaimur at Mohania
8. The Account General, A.G. Office (Mohalekhakar Bhawan), Birchand Patel Path, Patna
9. The District Accounts Officer, Sasaram , Rohtas, Bihar

.... Respondents

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Appearance :

For the Petitioner/s : Mr. S.B.K.Manglam, Adv.
Mr. Abhay Shankar Singh, Adv.
For the Respondent/s : Mr. S.S.P.Yadav, SC14

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 19-03-2018

Heard Mr. S.B.K.Manglam, learned counsel appearing for the petitioner alongwith Mr. Abhay Shankar Singh, the Advocate on record and Mr. S.S.P.Yadav, learned SC-14, for the State.

The petitioner is aggrieved by letter no. 8083 dated 7.10.2016, impugned at Annexure 10, issued by the Secretary (Expenditure), Department of Finance, Govt. of Bihar, whereby he has restricted the benefit of Government Resolution No. 163 dated 8.1.2016 for grant of financial progression under the Assured Career Progression Rules, 2003 to only direct recruits by holding that it would not be extended to those appointed on compassionate ground,



absorption or by up-gradation of post.

Although a counter affidavit has been filed by the respondents contesting the relief prayed but the same was filed on 30.5.2017. The parties are in agreement that the issue raised in the writ petition was contested in a batch of writ petitions arising from C.W.J.C.No. 18433/2016 (**Shashi Shekhar Ambastha vs. the State of Bihar**) and analogous cases and this Court after hearing the parties and after quashing the policy decision issued by the State Government including the one put to challenge in the writ petition in so far as it had a restrictive application and denied Assured Career Progression under the ACP Rules to those appointed on compassionate ground, absorption or up-gradation of post, issued direction to the respondents to accord ACP benefits to them in accordance with law. The batch of writ petitions were allowed with the following directions:

“For the discussions aforementioned, the resolutions of the State Government in its Finance Department bearing No. 163 dated 8.1.2016 in so far as it restricts the benefit of Assured Career Progression to the Graduates exclusively together with its resolution bearing No. 5276 dated 30.6.2016 in so far as it restricts the benefit of Assured Career Progression to only petitioners in C.W.J.C.No. 18015/2011 and C.W.J.C.No. 16346/2011 as well as the opinion of the Secretary (Expenditure), Department of Finance, contained in his letter bearing No. 8083 dated 7.10.2016 at Annexure P-11 to restrict



the benefit under resolution dated 8.1.2016 and 30.6.2016 to direct recruits exclusively and to outclass compassionate appointees, those appointed by absorption as well as the Accounts Clerks holding the post by upgradation, from its applicability, are patently discriminatory and are accordingly quashed and set aside.

As a result, all consequential actions taken by the controlling departments against these petitioners are quashed and set aside. The State in its Finance Department together with the controlling departments of the petitioners are directed to accord the benefit of Assured Career Progression to these petitioners as extended to the petitioners in C.W.J.C.No. 18015/2011 and C.W.J.C.No. 16346/2011 from the due date in accordance with law within a period of three months from the date of receipt/ production of a copy of this order together with all consequential benefits.”

Having considered the submissions and the pleadings on record and in view of the legal position settled by this Court in the judgment and order rendered in the case of **Shashi Shekhar Ambastha** (supra), the writ petition is allowed in terms of the judgment and order passed in the case of **Shashi Shekhar Ambastha** (supra) as well as relief allowed therein which would govern the case of the present petitioner as well including the time fixed thereunder. Since the policy decision put to challenge in the present writ petition



has already been quashed in the judgment and order passed in the case of **Shashi Shekhar Ambastha** (supra) there is no requirement for a separate order to such effect.

The writ petition is allowed in the aforesaid terms with no order as to costs.

(Jyoti Saran, J)

Surendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	25.03.2018
Transmission Date	NA

