

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20828 of 2010

- =====
1. Rana Pratap Singh S/O Late Ram Charitra Singh R/O Tahir Lane, Road No. 16, Gardanibagh, P.S.- Gardanibagh, District- Patna
 2. Satyendra Prasad S/O Late Kamta Prasad R/O Mohalla- Khajoorbanna, P.O.- Mahendru, P.S.- Sultanganj, District- Patna
 3. Satish Kumar Sinha S/O Late Shambhu Sharan Prasad R/O 31, Ram Janam Bhawan, Magadh Vihar, Gardanibagh, Patna
 4. Alakh Prasad Sinha S/O Late Kamta Prasad Verma R/O Prithvipur, Chirainyatar, Gajjarghat Lane-3, P.S.- Kankarbagh, Patna
 5. Jeet Lal Paswan S/O Late Hansraj Paswan R/O Village- Baliyaban, P.O.- Chainpura Dariyapur, P.S.- Naubatpur, Patna
 6. Ram Charitra Prasad S/O Late Bishun Mahto R/O Village- Barharaji, P.O.- Gola, Barharaji, District- Nawda
 7. Md. Aslam S/O Late Md. Mohib R/O Hamidpur, Kunji, P.S.- Budha Colony, Patna
 8. Raghunandan Ram S/O Late Ram Bishun Ram R/O Saristabad (South Tola), P.O.- Anisabad, Patna
 9. Ram Pravesh Singh S/O Late Narsingh Singh R/O Beaur Behind Patliputra School, P.O.- Anisabad, Patna

.... Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary Department Of Finance, Govt. Of Bihar, Patna
3. The Principal Secretary Department of Personnel and Administrative Reforms, Govt. Of Bihar, Patna
4. The Principal Secretary Department Of Building Construction, Govt. Of Bihar, Patna
5. The Chief Engineer, Department Of Building Construction, Patna
6. The Superintending Engineer Department Of Building Construction, South Bihar Circle, Patna
7. The Executive Engineer, Central Building Division, Patna
8. The District Accounts Officer, Patna

.... Respondent/s

=====

Appearance:

For the Petitioner/s : Mr. HARSH ANUJ
For the State : Mr. S.K. Mandal, SC-3
Ms. Neelam Kumari, A.C. to SC-3

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 13-07-2018

The petitioners herein have challenged the orders dated



15.5.2010 and 05.06.2010 whereby and where under the date of grant of benefit of second A.C.P. has been revised and instead of counting the period of 12/24 years from the date of entry of the petitioners in service, the period of 12/24 years has been counted with effect from the date of their promotion.

The learned counsel for the petitioners has referred to proviso 2 Rule 4(2) of the Bihar State Employees Conditions of Service Conditions (“Assured Career Progression Scheme”) Rules, 2003 which are reproduced herein below:-

“(2) Appointment made to higher post on the basis of selection made through Limited Competitive Examination, shall be treated as direct recruitment for the purpose of sanction of financial progression under the Scheme and service rendered in the lower scale of pay shall not be counted if there is provision for direct recruitment in the relevant Recruitment Rules:

Provided that if the relevant recruitment rules, a promotion quota has been fixed for the employees in the lower scale of pay, then such appointment shall be treated as promotion for the purpose of benefit of financial progression under the Scheme and the past service shall be counted for the sanction of benefits of financial progression.

Explanation: (i) For example, if the relevant Recruitment Rules provide for filling up of vacancies of Deputy Collectors cadre only by direct recruitment and any secretariat Assistant is recruited in the said grade, through Limited Competitive Examination, then it shall be treated as direct recruitment for the purpose of sanction of benefit under the Scheme. In such cases, period of service rendered in a lower pay scale shall not be counted for the purpose of benefit of financial progression under the Scheme. On the other hand relevant Recruitment Rules for appointment to LDC prescribe a promotion quota for group ‘D’ employee so



the service rendered as group 'D' shall be counted for sanction of financial progression under the scheme subject to the promotional quota and they would be treated as having obtained one financial progression.

In reference to the aforesaid rules, it has been submitted that once the petitioners have been granted promotion from the post of Class-4 post to the post of Accounts Clerk, they would be deemed to have got the benefits of 1st A.C.P. on the date of promotion and the grant of benefit of second ACP would be the date on which 24 years have elapsed taking into account the very initial entry into service on Class-4 post.

The aforesaid contention of the petitioners has not been refuted by the learned counsel for the respondents.

Having regard to the facts and circumstances of the present case, the orders dated 15.3.2010 and 05.06.2010, qua the petitioners herein is held to be illegal and is accordingly set aside. The respondents are directed to re-fix the date of grant of second A.C.P. At this juncture, the learned counsel for the petitioners submits that the correct calculation has been done by the respondents while issuing the orders dated 09.10.2007, by which the date of grant of the benefits of second ACP has already been rightly fixed.

In such view of the matter, the respondents are directed to act in accordance with the aforesaid notification dated 09.10.2007



(Annexure-5 to writ petition).

The writ petition is allowed.

The necessary action be taken within a period of six weeks from today.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

