

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No 113 of 2013

- =====
1. The State Of Bihar through the Chief Secretary Bihar, Patna
 2. The Commissioner-Cum-Secretary Finance Department, Govt. Of Bihar, Patna
 3. The Secretary Minor Water Resources Department, Govt. Of Bihar, Patna
 4. The Under Secretary Minor Water Resources Department, Govt. Of Bihar, Patna
 5. The Project Coordinator, Tube Well Prabhag, Bihar, Patna

.... Appellant/s

Versus

Bihar Rajkiya Nalkoop Karmchari Sangh, Through Its General Secretary Ramesh Prasad Singh S/O Late Bhuneshwar Prasad Singh R/O Village- Narang Rampur, P.S.- Narang Rampur, District- Vaishali

.... Respondent/s

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Appearance :

For the Appellant/s : Mr Ranjan Kr Singh, AC to PAAG II
For the Respondent/s : M/s Bindhyachal Singh, Prashant Sinha,
Satya Prakash, Advocates

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CORAM: HONOURABLE DR JUSTICE RAVI RANJAN

And

HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE DR JUSTICE RAVI RANJAN)

Date: 11-09-2018

This Letters Patent Appeal (for brevity, *LPA*) was earlier disposed of by setting aside the decision of the Single Bench with respect to the third category of employees, who were appointed on daily wages or under work charge establishment in the Water Development Corporation and subsequently regularized. Whether the period prior to regularization was to be considered for the purpose of grant of Assured Career Progression (for brevity, *ACP*) or not is the issue involved in the appeal.



2 Learned Single Judge has said that it has to be considered but the Division Bench has set aside that part of the order partly allowing the *LPA*. Aggrieved by this part of the judgment, the respondent-Bihar Rajkiya Nalkoop Karmchari Sangh preferred *Civil Review No 463 of 2017*. After considering the relevant provision, the aforesaid part of the judgment was recalled and matter was again remitted/restored to the Division Bench to that extent only for fresh consideration after recording that the observations made with regard to the applicability of the concerned Rules are provisional only for considering the question of review/recall.

3 Having heard the learned counsel for the parties and having perused the relevant Rule, we also concur with and confirm the provisional views expressed by the Division Bench in *Civil Review No 463 of 2017*.

4 The relevant provision of the *ACP Scheme*, which has been incorporated with effect from 20.03.2006, is being extracted as under:

“4(II क) नियमित कार्य भारत कर्मचारियों के ए.सी.पी. प्रोन्नति के लिए कार्य भारत सेवावधि की गणना की जायेगी।”

5 It is quite clear that the State Government's policy itself is that period spent by the employees under work charge establishment is to be calculated/counted for considering their eligibility in terms of length of service for grant of benefits under the



ACP Scheme after their regularization. Hence, the period, which was spent by them under work charge establishment, is also to be considered as length of service for the said purpose.

6 With the aforesaid modification in the order, the *LPA* stands disposed of.

7 We are making it clear that we have not decided in the present *LPA* as to whether the writ petitioner/respondent were in the work charge establishment or not. It will be open for them to make a claim on such issue if they were actually under work charge establishment. In such a case, the State Government will consider the same on merit in accordance with law.

(Dr Ravi Ranjan, J)

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
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