

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17612 of 2008

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Rajendra Rai, son of late Shiv Govind Rai, Resident of Village Thara, P.O. Buxar Jail, P.S. Buxar (T), Dist. Buxar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary, Personnel & Administrative Reforms Department, Bihar, Patna.
3. The chief Engineer, the Irrigation Department of the Government of Bihar, Patna.
4. The Executive Engineer, Irrigation Department, Division Daudnagar (Maulabagh), Distt. Aurangabad.
5. The Superintending Engineer, Irrigation Department, Sone, Aurangabad.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Nil Kamal, Adv.

For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 09-02-2018

Heard learned counsel for the parties.

In this case, the petitioner is seeking benefit of A.C.P. which has been refused on the ground that he failed to clear the departmental examination.

Learned counsel for the petitioner, on the last occasion, had submitted that mere failure to clear the departmental examination will not deprive the petitioner from being given the benefit of A.C.P. It has further been argued that it is not prerequisite to pass the accounts examination for entitlement to the benefit of A.C.P. and he has placed reliance on two judgments, in the case of *Shashi Shekhar Ambasta & Ors. Vs. State of Bihar & Ors.* reported in 2011



(3) *PLJR 474* and in the case of *Ram Ekbal Singh Vs. The State of Bihar & Ors.* reported in 2012 (4) *PLJR 266* and this Court has taken cognizance to the subsequent judgment passed by this Court in the case of *Ashok Kumar Singh Vs. The State of Bihar & Ors.* reported in 2017 (1) *PLJR 864*. In the aforesaid two judgments, it has held that passing the accounts examination will be necessary for promotion but, not for grant of A.C.P. but, the subsequent judgment, taking into account the provision of A.C.P. i.e. Clause 4(5) of the Bihar State Employees Service Condition Assured Career Progration Scheme, 2003 prescribes that the eligibility criteria for granting financial progradation will be same as prescribed for grant of regular promotion. So whatever the conditions are there for regular promotion, will be equally applicable to the grant of A.C.P. It is not in dispute that for grant of regular promotion, passing of Accounts Examination is pre-requisite and unless a person pass the Accounts Examination, he does not hold a requisite qualification for being considered for promotion to the next grade and, in the same manner, the same condition is attached for grant of A.C.P. Only those who passes the Accounts Examination will be entitled for the A.C.P. Admittedly, the petitioner has failed to pass the Accounts Examination. On the last date i.e. on 17.11.2017, the petitioner has taken a plea that the department itself has failed to conduct the examination. In such a situation, passing or



not passing the examination of account does not arise and that ground, cannot be inflicted upon the petitioner for deprivation of A.C.P. for that this court had adjourned the case to bring on record about the factum of holding the examination of accounts and, in paragraph no.6 of the supplementary counter affidavit, it has been mentioned that the Accounts Examination was conducted in the year 1992 as well as in the year 2000 but, the name of the petitioner is not there to have passed the Accounts Examination. Admittedly, the petitioner has failed to pass the Accounts Examination. In that view of the matter, when the person himself has failed to acquire necessary qualification for grant of A.C.P., this Court does not find any substance in the petition to issue direction to grant the benefit of A.C.P.

Hence this writ petition is dismissed.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.02.2018
Transmission Date	NA

