

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12967 of 2015

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Mahendra Nath Jha, Son of Late Ramakant Jha, resident of Village- Fatehpur,
P.S.- Narpatganj, District- Araria.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Secretary Department of Revenue and Land Reform Government of Bihar, Patna.
3. The Secretary, Department of Finance, Government of Bihar, Patna.
4. The Commissioner, Purnea Division, Purnea.
5. The Collector, Araria.
6. The Additional Collector, Araria.
7. The Circle Officer, Palasi, District- Araria.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhay Shankar Jha, Adv.

For the Respondent/s : Mr. Chittranjan Sinha, PAAG2

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 19-12-2018

Heard learned counsel for the parties.

In this case, the petitioner had entered into the service for the first time as Chak-Nirikshak on 13.1.1973 in the pay-scale of Rs. 220-315, was posted in the office of Deputy Director, Consolidation, Purnea.

The post of Chak-Nirikshak was equivalent to the post of Amin and, in that capacity, the petitioner worked as Amin till 29.2.1996 at different offices within the district of Purnea, Saharsa and Supaul. Subsequently, vide letter no. 193 dated 29.2.1996 read with partial correction vide Memo No. 906 dated 28.8.1997 issued under the signature of Deputy Secretary, Department of Revenue



and Land Reforms, Patna, the petitioner was transferred as Revenue Karamchari in the pay-scale of Amin in the revenue district of Araria Collectorat on 1.9.1997 and, from there, the petitioner was posted on Circle Office, Palsai, Araria, on reaching the age of 58 years, the petitioner superannuated from service on 31.1.2005 and having claimed that he is entitled to the 1st ACP which has not been given to him.

In paragraph no.7 of the counter affidavit, the State has taken a plea that the petitioner is a Middle pass and he has completed the service less than 12 years and has joined the service on 1.9.1997 and on 31.1.2005, he got superannuated.

This fact is belied from the fact mentioned in the supplementary counter affidavit of the respondent State wherein it has been admitted that the petitioner is holding the qualification of Madhyama which is equivalent to the Matriculation and further submitted that for the first time he was appointed in the year 1973 and superannuated in the year 2005, so, the plea that has been taken by the State that he has not completed 12 years of service is falsified and is incorrect.

The State has not denied that the petitioner is not holding the qualification of Madhyama as well as there is no denial of the fact that the petitioner has entered into service for the



first time in the year 1973 but, he has been made Karamchari in the year 1997. Therefore, the State has wrongly refused to reckon the period prior to 1997.

Having considered the rival contentions of the parties, as it appears from the submission of the learned counsel for the petitioner that minimum qualification for a Amin is Matriculate which the petitioner possess. In such circumstances, the claim made by the State of 7th pass cannot be allowed to sustain and, so far the period of 12 years is concerned, it is an admitted fact that the petitioner had started working since 1973, if it is accounted for granting benefit of 1st ACP and 2nd ACP, admittedly, the petitioner had worked more than 24 years in the Agriculture Department and never promoted to higher post but, remained in the equivalent post, carrying the same scale of pay. So the entire period will be counted for the purpose of granting the benefit of A.C.P. and, in total, the petitioner remained attached with the pay-scale of Amin for about 32 years. As the petitioner has superannuated on 31.5.2005, at that time, the provision of M.A.C.P. was not there in force and, as such, the petitioner is entitled for the 1st and 2nd A.C.P. as stated herein above.

In the result, this writ application stands allowed with a direction to the respondents to grant the benefit of A.C.P. within a



period of six months from the date of receipt/production of a copy
of this order.

(Shivaji Pandey, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.01.2019
Transmission Date	

