

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2143 of 2019

Om Prakash Yadav S/o- Sahdeo Yadav R/o- Village- Hardiyabad, P.O-
Jankinagar, Mufassil, Dist-Monghyr

... .. Petitioner/s

Versus

1. The State of Bihar and Ors through the Director In chief, Health Services, Govt. of Bihar, Patna
2. Director in Chief, Health services Govt. of Bihar, Patna
3. The Additional Director, Health Services- cum- state Program Officer, state Leprosy Eradication Bihar, patna
4. The Regional Deputy Director, Health Services. Bhagalpur, Bhagalpur Division, Bhagalpur
5. Civil Surgeon cum chief medical officer Banka
6. The District Leprosy Eradication Officer Banka

... .. Respondent/s

Appearance :

For the Petitioners : Mr. Baidya Nath Thakur, Advocate.
Mr. Prabhakar Thakur, Advocate.
For the Respondents : Mr. Aditya Nath Jha, AC to SC 18.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 11-02-2019

Heard Mr. Baidya Nath Thakur, learned advocate for the petitioner and Mr. Aditya Nath Jha, learned AC to SC 18.

2. The petitioner is aggrieved by shifting of the date of payment of ACP to him to a later date, ostensibly on the ground that the petitioner had not passed the departmental/accounts examination on time and therefore any such financial progression would have been made available to him only from the date when he became eligible for being promoted to a higher posts and after completing ten or twenty years for grant of first and second ACP.



3. Learned counsel for the petitioner submits that passing of the departmental/accounts examination cannot be made a precondition for grant of financial progression which is governed by statutory rule of 2003. The requirement of passing departmental examination under the Boards' Miscellaneous Rules of 1956 read with circulars of finance department are only for the purposes of promotion to the selection grade and not for general promotion. A person is eligible for first and second ACP on completing ten and twenty years of service. However sub-clause (5) of Clause 4 of ACP Rules, 2003 indicate and clarifies that such financial progression would be given to an employee, if he is eligible for promotion to a higher post.

4. In the present case, the only controversy therefore is that even if there are promotional avenues in the cadre of Clerk to which the petitioner belongs, but for him to be eligible for promotion to a higher post which would not be a selection grade, would he be required to pass the departmental/accounts examination. If this is not the condition precedent, it has been argued, the financial progression ought to be given to him from the date when he completes ten years or twenty years of service in the same post without any promotion. This not having been



done and the shifting forward of the date has aggrieved the petitioner.

5. Under the aforesaid circumstances, the petitioner is directed to make a representation before the Additional Director, Health Services-cum-State Program Officer, State Leprosy Eradication, Bihar, Patna within a period of four weeks, who on receipt of the aforesaid representation, shall check up the factual position and shall dispose of such representation by a reasoned order within a period of eight weeks thereafter.

6. If the petitioner makes a representation for grant of MACP on completing thirty (30) years of service, that prayer also shall be considered by the concerned respondent within the aforesaid period.

7. With the aforesaid direction/observation, the writ petition is disposed off.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.02.2019
Transmission Date	

