

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 2860 of 2016

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Vishnu Kant Mishra, S/o Late Chhedi Mishra, R/o Village- Vairab Ballia,
P.S.- Manigachhi, Dist- Darbhanga.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Chief Engineer, Water Resources Department, Darbhanga.
3. Superintending Engineer, Western Koshi Canal Division
4. Executive Engineer, Western Koshi Canal Division, Khutona.
5. Commissioner, Darbhanga Division, Darbhanga.
6. Secretary to Commissioner, Darbhanga Division, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr Rajni Kant Jha, Advocate
For the S t a t e	:	Mr Mujtabaul Haque, GP XII with Mr Manish Kr, AC to GP XII

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 17-04-2019

Heard learned counsel for the petitioner and the respondent-State.

2 Petitioner's claim for benefits under Assured Career Progression Scheme (for brevity, *ACP Scheme*) has been resisted by the respondent-authorities by assigning a reason that he does not possess requisite qualification for grant of benefits as stipulated under the ACP Scheme. They are resisting the claim by saying that the petitioner has not passed certain departmental examinations.



3 Counter affidavit reveals a very sorry state of affairs.

The Secretary to the Divisional Commissioner, Darbhanga Division, in the year 2008 itself, wrote to the Superintending Engineer, Western Koshi Canal, Circle – II, Darbhanga to send the information/documents requisite for taking a decision as regards grant of exemption from passing the departmental examination in case of the petitioner. About 11 years have elapsed, till date, the same has not been done. Learned counsel for the State has in fact submitted that petitioner, in the meantime, has retired.

4 The fact that the respondent-authorities have not been able to take a decision for the last about 11 years cannot be made the basis of rejecting or denying petitioner's legitimate claim. The respondents should take a decision pursuant to the communication of the Secretary to the Commissioner, Darbhanga Division dated 04.10.2008 referred to in the counter affidavit at paragraph 13 and communicate the decision to the petitioner expeditiously and not later than four weeks from the date of receipt/production of a copy of this order.

5 The authorities have kept the matter pending for such a long time, therefore, if the petitioner is found to be eligible for exemption then the monetary benefits, arising therefrom, shall be paid to the petitioner within a period of eight weeks thereafter.



6 Writ petition stands disposed of in the aforesaid terms.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.04.2019
Transmission Date	NA

