

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2502 of 2016

Barun Kumar Jha S/o Late Shashidhar Jha resident of Village - Khajuraha,
P.S. - Sonbarsa, District – Saharsa. Petitioner/s

Versus

1. The State Of Bihar and Ors.
2. Principal Secretary, Water Resources Department, Government of Bihar,
Sichai Bhawan, Patna.
3. Chief Engineer, Water Resources Department, Aurangabad Zone,
Aurangabad.
4. Commissioner, Magadh Division, Gaya.
5. Superintending Engineer, Water Resources Department, Aurangabad.
6. Executive Engineer, Water Resources Department, Daudnagar, Aurangabad.
... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Pramod Kumar Singh, Advocate
For the Respondent/s : Mr.Avinash Kumar- SC 30

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 14-02-2019

Petitioner was a clerk in the Irrigation Division, at Daudnagar in the office of Superintending Engineer of Sone High level Canal Circle, Aurangabad. It is submitted that during the entire period of service he has not been granted any progression in service. He has approached this Court for grant of benefits under the ‘Assured Career Progression Scheme’.

Peculiar stand has been taken by the respondent State. In the counter affidavit they have said that since he had not passed the departmental examination he is not entitled to benefit under the ACP. At the same time paragraph 16 and 17 of the counter affidavit makes it clear that petitioner’s claim for exemption from passing the Departmental Examination has been kept pending by the respondents themselves since 20.09.2013. Since the entitlement of the petitioner can only be decided upon final



decision taken on the petitioner's application for exemption, this Court would consider it appropriate to direct the respondent no. 4 Commissioner, Magadh Division, Gaya to take a final decision on the petitioner's pending application.

During pendency of the writ petition petitioner has attained the age of superannuation on 28.02.2016. Therefore, this Court would observe that the respondent authorities cannot be permitted to make the petitioner suffer on account of pendency of his application before the respondent authorities since the last five years. Let the respondent no. 4 take a final decision on the petitioner's pending application for exemption from passing the departmental examination within a period of three months from today. However, if he is found entitled for exemption then the petitioner cannot be denied the benefit of such a decision by assigning a reason that decision has been taken belatedly. Petitioner would be entitled to such benefit with effect from 20.09.2013.

Writ petition is disposed off with the aforesaid direction.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

