

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8215 of 2015

1. Dinbandhu Pathak and Anr S/o Late Jagdish Pathak r/o Mohalla Club Road Area, P.S. - Aurangabad Town, in the District of Aurangabad, Presently posted as Assistant Engineer, Local area Engineering Organization, Rohtas at Sasaram.
2. Janardan Nath Singh S/o Sri Markande Singh R/o Village bhokari, P.S. Karagohar, District Rohtas at Sasaram , Presently posted as Assistant Engineer, Rural works Departments, work division, Pakori Dayal, District-East Champaran.

... .. Petitioners

Versus

1. The State Of Bihar
2. The Secretary , Road Construction Department, Government of Bihar, Patna.
3. The Engineer-in-Chief , Road Construction Department , Government of Bihar, Patna.
4. The Additional Secretary , Road Construction Department , Government of Bihar, Patna.
5. The Deputy Secretary, Road Construction Department , Government of Bihar, Patna.
6. The Additional Secretary, Finance Department , Government of Bihar, Patna.

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr. Siya Ram Shahi Mr. Ashok Kumar Singh Mr. Abhishekh Kumar Singh
For the Respondent/s	:	Mr. Gyan Shankar, AC to GP 2

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 14-08-2019 Mr. Shahi appearing for the petitioners submits that

the petitioners' services rendered as ad hoc Assistant Engineer

has been ignored for the purpose of calculating length of service

(*Kalawadhi*) for ascertaining their entitlement in respect of

benefits under the assured career progression scheme. The



petitioners are therefore deprived of their due ACP. He submits that in view of resolution of Government of Bihar in the Finance Department dated 27.5.2013, petitioners are entitled to consideration/calculation of their services rendered as ad hoc Assistant Engineers for the purpose of being granted benefits of ACP.

The issue based on government's own resolution, however, has not been raised anywhere till now. In the circumstances, since consideration of petitioners' claim has to be done by the respondent authorities themselves in light of their own resolution, pendency of the instant proceedings therefore are futile.

Mr. Shahi submits that the petitioners would represent their claim based on Annexure 3 before respondent No. 2 within a period of four weeks.

In the event petitioners make their representation within four weeks, the respondent No. 2 would be obliged to take a decision in respect of their claims in accordance with law by a reasoned and speaking order within a period of eight weeks thereafter.

Petitioners' Counsel further submits that earlier benefits had been granted on account of first and second ACP



under notification dated 21.4.2014, which has subsequently been withdrawn/modified by notification dated 5.11.2014 and as a result, recovery are also being made from the petitioners on account of payment made under notification dated 21.4.2014.

The recovery already made is a fait accompli. However, since consideration has to be done by the authorities on the basis of their own resolution dated 27.5.2013 this Court would only observe that further recovery shall not be made from the petitioners from the date of receipt/production of a copy of this order till disposal of their representation, if the same is filed by the petitioners within a period of four weeks.

The writ petition stands disposed of.

(Madhuresh Prasad, J)

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