

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7751 of 2016

Manzar Hassan S/o Late Md. Manzoor Ahmad, resident of Village Hassan
Manzil, Pashchim Tola, Ward No.18, Khaira Road, P.S. and Dist- Jamui.

... .. Petitioner

Versus

1. The State Of Bihar through Executive Engineer, Road Construction Department, Road Division Jamui
2. Principal Secretary, Road Construction Department, Visheshwaraiya Bhawan, Patna.
3. The Secretary, Road Construction Department, Visheshwaraiya Bhawan, Patna.
4. Engineer-in-chief-cum-Special Secretary, Road Construction Department, Visheshwaraiya Bhawan, Patna
5. Commissioner, Munger Division.
6. Chief Engineer, Road Construction Department, Sough Bihar, Patna.
7. District Magistrate, Jamui.
8. Superintending Engineer, Road Circle, Munger.
9. Executive Engineer, Road Division, Road Construction Department, Jamui.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Prabhat Ranjan Singh
For the Respondent/s : Mr.Ajay- Ga12
Mr. Ashish Kumar Lal AC to GA 5

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 11-04-2019 A Division Bench of this Court in the proceeding
arising out of **LPA No. 599 of 2015** in the case of **Ramadhar
Thakur Vs. State of Bihar** on 19.3.2018 has concluded as
follows:-

*“... in the light of discussion as above,
since we have clearly held that passing of
departmental Accounts Examination is not
a condition precedent for grant of Assured
Career Progression under ‘the ACP Rules’*



nor does Rule 157(J)(3) of the Bihar Boards Miscellaneous Rules conceive of such a requirement. The decision must be taken within a period of two months from the date of receipt/production of a copy of this order. It is held that the appellants shall be entitled for all consequential benefits arising out of the grant of ACP which also must be released within two months thereafter.”

The claim of the petitioner for grant of benefits under second ACP has been denied from due date upon completion of *kalawadhi* on the ground that he has not passed the Accounts Examination. Accordingly, the date has been shifted forward. Resultantly the petitioner has been denied benefits of 2nd and 3rd ACP. The issue now stands covered in the light of decision of the Division Bench in LPA No. 559 of 2018, the relevant extract of which has been taken note of hereinabove.

The respondents in terms of their own Litigation Policy specifically Clause 4(C)(i) of the Bihar Litigation Policy 2011 should consider grant of benefits to the petitioner in light of the declaration of law taken note of hereinabove. Since the petitioner's case is “covered matter” the authorities would be obliged to extend the same benefits as has been done in the case of ***Ramadhar Thakur***. The respondent No. 8 should take decision within a period of four months from the date of



receipt/production of a copy of this order, whereupon the petitioner would be entitled to consequential benefits in terms of order of the Division Bench.

The writ application stands disposed in terms of the said direction.

I.A. No. 6210 of 2016 has been filed placing on record letter dated 8.7.2016 whereby without affording any prior opportunity to the petitioner recovery has been directed to the tune of Rs. 2,36,190/- on account of shifting forward to the effective date of ACP in the case of petitioner.

Since the issue has to be now decided in terms of law declared by Division Bench in terms of direction hereinabove this Court would further direct that no recovery would be made on the basis of letter dated 8.7.2016.

(Madhuresh Prasad, J)

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