

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 7739 of 2015

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1. Shyam Kishore Singh and Ors son of Late Kali Singh, resident of Mohalla Shri Krishnapuri, Qr. No. 0-1/40, P.S.- S.K. Puri, District Patna.
 2. Raghubar Narayan Prasad Son of Late Hiralal, resident of Mohalla Lodipur, Budhmarg, P.O. G.P.O., P.S. Budha colony, District Patna.
 3. Ram Saran Rai, Son of Late Ram Dahin Rai, resident of Mohalla Dujra, Western of Masjid, P.S. Budha Colony, District Patna.
 4. Himesh kumar, Son of Late Gopal Prasad Sahani, resident of L-2/42, P.I.T. Colony, Kankarbagh Patna- 800020.
 5. Smt. Ram Maya Devi, Wife of Late Ram Ballabh Prasad Singh, resident of Mohalla Khasmahal, Road No. 4, Chiraiyatar, Patna- 800001.
 6. Ram Nandan Singh, Son of Late Brahmdeo Singh, resident of village Thikaha Mataiya, P.S. and District Vaishali.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. Municipal Commissioner, Patna Regional Development Authority Dissolve/ Patna Municipal Corporation
3. The Controller of Finance and Accounts, Patna Regional Development Authority Dissolve/ Patna Munic

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shyama Kant Singh
For the Respondent/s : Mr. Sc31-Pandey S. Sahay

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

6 25-06-2019 Heard learned senior counsel for the petitioners as well as counsel for the respondents-Corporation.

Writ petition has been filed by six persons who are retired employees of erstwhile PRDA (dissolved) claiming grant of benefit under Assured Career Progression Scheme of the State of Bihar.

Counsel for the Corporation has in the counter



affidavit raised objection that the petitioners have suppressed relevant material facts while approaching this court. He submits that petitioner nos. 2, 3 and 6 of the instant proceedings had earlier approached this court for the same relief but they have intentionally not disclosed the fact regarding filing of earlier writ petition. In so far as petitioner no.5 is concerned, he submits that one CWJC no. 6656/2015 has been filed by her wherein there is claim of ACP along with other reliefs.

With respect to petitioner no.4, specific stand of the Corporation is that petitioner no.4 has claimed to be a successor of Late Gopal Prasad Sahani. Due to non-submission of succession certificate even admitted retiral due of retired employee Late Gopal Prasad Sahani has not been paid to the petitioner and as such his locus to claim any benefit on account of ACP of Late Gopal Prasad Sahani is disputed by counsel for the Corporation as being not maintainable.

Learned senior counsel for petitioners, in response to the counter affidavit on various objections raised by counsel for Corporation, has submitted that there has been laches regarding details mentioned in writ petition and has tendered unconditional apology for the same at para 12 of rejoinder filed on behalf of the petitioners.



Record reveals that claim for benefit of ACP was rejected by the Municipal Commissioner individually by order dated 24.02.2012 in respect of petitioner no.2 (Annexure B series), 20.04.2015 in respect of petitioner no.3 (Annexure C/1) and 18.06.2014 in respect of petitioner no.6 (Annexure D/1). Rejection of claim for benefit under ACP is based on the decision of the Corporation. Benefit of ACP was admissible only to employees and officers who were in service. As per policy, benefit of ACP has not been granted to any retired employee of the Corporation in view of office order dated 22.09.2008.

The specific stand in this respect is contained in para 13 of the counter affidavit. The claim of the petitioners that benefit under ACP was granted to one Rajendra Prasad has been denied with reference to order dated 24.06.2014 (Annexure E of the counter affidavit) whereby and whereunder claim for grant of benefit under ACP made by the said Rajendra Prasad was rejected on the same ground.

The decision of the Corporation contained in office order dated 22.09.2008 to limit grant benefit under ACP to working employees and officers has never been assailed by the petitioners. The specific rejection of the claim for ACP made by



petitioner nos. 2, 3 and 6 has been rejected by reasoned order issued by the Municipal Corporation contained in Annexure B series, C/1 and D/1 respectively as taken note of hereinabove. The said order has also never been challenged by the petitioners.

Record reveals that in respect of grant of benefit to retired employees, Corporation has maintained uniformity and limited grant of benefit under ACP to employees and officers serving in the Corporation as per decision of the Corporation contained in office order dated 22.09.2008. Same is being applied uniformly as would be evident from the stand taken note of by the Corporation. The office order dated 22.09.2008 has never been challenged by the petitioners.

In the circumstance, relief claiming benefit under Assured Career Progression Scheme without assailing office order dated 22.09.2008 or rejection of individual claim of some of the petitioners taken note of hereinabove cannot be allowed.

For the reasons indicated hereinabove, this Court would hold that the writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

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