

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14529 of 2019

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Vijay Pandey, aged about 63, Gender-Male, Son of Sachidanand Pandey,
Resident of Village-Akbarpur, P.S.-Rajhat, District-Nawada, Bihar, Pin-
805126.

... .. Petitioner/s

Versus

1. The State of Bihar represented through the Commissioner, Magadh Division, Gaya.
2. The Commissioner, Magadh Division, Gaya.
3. The District Magistrate, Nawada.
4. The Block Development Officer, Akbarpur, District-Nawada.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Sharma, Adv.

For the Respondent/s : Mr. Sheo Shankar Prasad (SC-8)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 13-08-2019

Counter affidavit has been filed in Court. Let it
be taken on record.

2. The petitioner had preferred a representation
before the District Magistrate, Nawada for consideration of
his entitlement for the benefits of M.A.C.P. under the
strength of an order of this Court dated 04.10.2018 passed



in C.W.J.C. No. 15390 of 2018. The aforesaid representation of the petitioner was rejected by the District Magistrate by saying that he is not the authority to decide about the issue.

3. This Court did not expect such an answer and was of the view that a District Magistrate, who is the overall in-charge of the District, cannot be permitted to give such slipshod response over the claims of a Class-IV employee.

4. The counsel for the State, therefore, was asked to clarify the stand of the District Administration and in particular of the District Magistrate, Nawada.

5. The counter affidavit which has been filed today seems to address the aforesaid observation made by this Bench on the earlier occasion. The affidavit *inter alia* states that the case of the petitioner was placed before the District Establishment Committee, Nawada, where it was resolved that since Nawada is a *Mufassil* District, the requirement of taking a decision with respect to passing any order on the 2nd A.C.P./M.A.C.P of a Class-IV employee, which would be governed by the Bihar Motor Drivers



(Recruitment and Service) Conditions, 2005, could be decided only by the Divisional Establishment Committee which is Chaired by the District Magistrate, Gaya with two authorized Members of the Commissionary, Gaya.

6. The case of the petitioner and others have been recommended to the Office of the Commissioner, Gaya for taking a decision in that regard.

7. Since the District Magistrate, Nawada has already referred the matter to the Commissioner, Magadh Division, Gaya, it is expected that the Divisional Establishment Committee shall take a decision over the issue as early as possible, preferably within a period of eight weeks of the receipt/production of a copy of this order by the Commissioner, Magadh Division, Gaya.

8. The Commissioner, Magadh Division, Gaya shall ensure that the Divisional Establishment Committee takes a decision in accordance with law within the appropriate time frame set by this Court.

9. A copy of this order would be produced by the petitioner before the Commissioner, Magadh Division, Gaya



for the needful within a period of one week from the date of passing of the order.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21.08.2019
Transmission Date	N/A

