

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13752 of 2019

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Abhay Kant Jha S/o Late Shardakar Jha Resident of Village- Nauhar, Police
Station- Gwalpara, District- Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. The Principal Secretary, Prohibition Excise and Registration Department,
Govt. of Bihar, Patna.
3. The Inspector General of Registration, Prohibition Excise and Registration
Department, Govt. of Bihar, Patna.
4. The Assistant Inspector General of Registration, Prohibition Excise and
Registration Department, Govt. of Bihar, Patna.
5. The District Sub Registrar, Saharsa.
6. The District Sub Registrar, Supoul.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Chandra Jha 3
For the Respondent/s : Mr. Vivek Prasad (GP 7)

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 11-07-2019

Heard the learned counsel for the parties.

2. The petitioner has challenged the order dated
03.06.2019 contained in Memo No. 06/2019-2006 issued
under the signature of Assistant Inspector General of
Registration, Prohibition Excise and Registration
Department, Government of Bihar, Patna, whereby the
representation preferred by the petitioner pursuant to an
order of this Court dated 24.04.2019 passed in C.W.J.C.



No. 6755 of 2019 has been rejected and the claim of the petitioner for being paid the benefits of ACP has been turned down on the ground that the petitioner has not passed in one of the departmental examination.

3. Learned counsel for the petitioner has submitted that there were no departmental rules during the service tenure of the petitioner and therefore it was not required for him to pass such tests for the purposes of the benefit of ACP rules of 2003. Sections 156 and 157 of the Boards Miscellaneous Rules also would not come in the way of the petitioner getting the benefits of ACP Rules of 2003. The issue no longer remain obscure as it has been decided by several judgments of this Court that ACP Rules of 2003 do not provide an avenue of promotion but only financial progression in case of no promotion having been given to an employee. It has also been held that passing of accounts examination or departmental examination as the case may be under the Bihar Boards Miscellaneous Rules 1958 would be necessary for crossing the efficiency bar,



confirmation and for promotion to selection grade but not general promotion and any such employee would be beneficiary of such scheme who is otherwise eligible for being promoted to higher post. There is no promotional post in the service of the petitioner.

4. Hence, the order impugned, it has been argued, depicts lack of application of mind over the position of law enunciated by several Benches of this Court. It has further been submitted on behalf of the petitioner that similarly situated employees who too had obtained an order of the kind that the petitioner had obtained from the High Court have been accorded the benefit of ACP Rules of 2003.

5. The order impugned therefore cannot be sustained and the same is set aside.

6. The respondent no. 4 viz. the Assistant Inspector General of Registration, Prohibition Excise and Registration Department, Government of Bihar, Patna is directed to pass a fresh order in accordance with law within



a period of four weeks of the receipt/production of a copy of this order.

7. For convenience, the petitioner would bring to the notice of the concerned respondent the relevant case laws within a period of one week.

8. The petition stands allowed accordingly.

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.07.2019
Transmission Date	

