

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19983 of 2019

Vijay Kumar, Son of Sadan Ram, Resident of Village-Chamhera, P.O. -Oriawan, Via-Ekangarsarai, Distt.-Nalanda, at present Residing at Mohalla-Ram Krishna Nagar, P.S. Ram Krishna Nagar, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
3. Director, Land Acquisition and Rehabilitation, Water Resources Department, Government of Bihar, Patna.
4. Joint Secretary cum Director, Land Acquisition and Rehabilitation, Government of Bihar, Patna.
5. Special Land Acquisition Officer, Special Land Acquisition Office, Middle Irrigation Project, Jamui (Bihar).
6. Treasury Office, Patna Collectorate, Patna.
7. Accountant General, Bihar Veerchand Patel Path, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shanti Pratap, Advocate
For the State	:	Mr. Binay Kr. Pandey, Advocate
		A.C. to G.A. - 2
For the Accountant General	:	Mr. Vivekanand Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

Date : 14-11-2019

Heard learned counsel for the parties.

2. The petitioner has retired while serving as Clerk in the office of Special Land Acquisition Middle Irrigation Project, Jamui, with effect from 31.10.2015. The matter for grant of ACP, it seems, was pending. The Water Resource Department, Government of Bihar, by an office order dated 08.02.2019, has refused to grant the petitioner, benefits of Assured Career



Progression on the ground that he had not cleared the accounts examination. The said decision is being assailed in the present writ application with reference to a Division Bench decision dated 19.03.2018 of this Court rendered in LPA No. 599 of 2015 (Ramadhar Thakur Vs. State of Bihar and Ors.), paragraph 177 of which reads thus:

*“17. Situated thus, and in view of the discussions, as above, there is no gainsaying that in view of Sub rule 5 of Rule 4 of ‘the ACP Rules’, the requirements for grant of regular promotion shall be applicable while considering cases for grant of ACP. Since, there is no provision prescribing passing of accounts examination for regular promotion, the appellant could not have been denied grant of ACP. We are of the clear view that the decisions in case of **Rameshwar Roy** (supra) and **Daya Shankar Singh** (supra) do not lay down the correct law and the same cannot be made applicable”.*

3. It further appears from the pleadings on record that the petitioner did not approach the authorities before approaching this Court by way of present writ application under Article 226 of the Constitution.



4. This writ application is, thus, disposed of with liberty to the petitioner to approach the authorities for grant of ACP, in the light of the Division Bench decision of this Court, as noted above. It goes without saying that the petitioner shall be at liberty to approach this Court in case of rejection of his representation.

(Chakradhari Sharan Singh, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	15/11/2019
Transmission Date	N.A.

