

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 2535 of 2020

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Ram Pukar Singh, Male, Age about- 72 years, son of Late Jagdish Singh, resident of Village- Rampur (Nerua), P.O.- Mirzapur, P.S.- Navinagar, District- Aurangabad, Bihar, presently residing at Village- Bariya Chowk (Adarsh Nagar), P.O.- Sudna (Daltonganj), P.S.- Medninagar, District- Palamu, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna;
2. The Principal Secretary, Water Resources Department, Government of Bihar;
3. The Chief Engineer, Research & Training, Irrigation Research Institute, Khagaul, Patna;
4. The Deputy Director, Division-3, Research & Training, Irrigation Research Institute, Khagaul, Patna;
5. The State of Jharkhand through the Principal Secretary, Department of Water Resources, Government of Jharkhand at Ranchi.
6. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Mrigank Mauli, Advocate
For the State	:	AC to AAG 4
For the Jharkhand State	:	Mrs. Nishi Nath Ojha, Advocate
For the Accountant General	:	Mr. Purushottam Kumar Ojha, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 24-02-2020

Heard learned counsel for the petitioner; learned AC to AAG 4 for the State; learned counsel for the State of Jharkhand as also learned counsel for the Accountant General, Bihar.

2. The petitioner has moved the Court for the following reliefs:



“a) For issuance of order(s), direction(s) or writ(s) in the nature of Mandamus directing the respondent authorities to grant all due financial benefits to the petitioner pursuant to his entitlement been approved for 1st Assured Career Progression (hereinafter referred to ACP) in the pay scale of Rs. 6,500-10,500 and 2nd ACP in the pay scale of Rs. 10,000- Rs. 15,200 with effect from 09.08.1999 on the ground of post of Junior Research Assistant/ Silt Analyst have pay scale of Junior Engineer vide Resolution dated 02.02.1980 (Annexure-P/2) by Govt. of Bihar.

b) For direction upon the respondent authorities to re-fix the pension and pensionary benefits of the petitioner in accordance with the approval of the pay-scale of Rs. 10,000-15,200 including the payment of the arrears of salary, gratuity, earned leave and other retiral benefits.

c) For issuance of an order, direction or a writ in the nature of Certiorari for quashing, that part of the Memo No. 3044 dated 03.06.2010 (Annexure-P/7) of Water Resources Department, Govt. of Bihar whereby and where under the petitioner has been granted the pay scale of Rs. 5,500-9,000 in place of appropriate higher scale of Rs. 6,5000-10,500 under 1st ACP on the ground that first higher post to the post of Research Assistant is the post of Research Officer not Assistant Research Officer since name of post of Research Assistant was changed to Assistant Research Officer vide Resolution No. 8086 dated 09.09.1978 (Annexure-P/3) however pay scale of Assistant Research Officer was same as Research Assistant and Assistant Research Officer was not a promotional post of Research Assistant;

And also that part of the Memo No. 3044 dated 03.06.2010 (Annexure-P/7) of Water Resources Department, Govt. of Bihar whereby and where under the Petitioner has been denied the pay



scale of Rs. 6,500-10,500 in place of appropriate higher scale of Rs. 10,000-15,200 under 2nd ACP on the ground that second higher post to the post of Research Assistant is the post of Deputy Director not Research Officer vide Resolution dated 02.02.1980 (Annexure- P/2).

d) To hold and declare that the first and second financial progression (promotions) granted to the petitioner under ACP schemes earlier in the pay scale of Rs. 6,500-10,500 and Rs. 10,500-15,200 respectively in the State of Jharkhand is legal, justified, valid and is accordance with Rule 3(2) of Assured Career Progression Scheme (ACP) Rules, 2003.

e) To hold and declare that Junior Research Assistant, Silt Analyst, Research Assistant and Assistant Research Officer are same post with same pay scale and not isolated post in hierarchal promotional post.

f) To hold and declare the next hierarchal/promotional post of Junior Research Assistant/Silt Analyst/Research Assistant/ Assistant Research Officer is Research Officer with pay scale of Rs. 6,500-10,500 and is not an Assistant Research Officer.

g) To hold and declare that next hierarchal/ promotional post of Research Officer is Deputy Director/ Executive Engineer with pay scale of Rs. 10,000-15,200.

h) For issuance of an order, direction to respondents for paying the all retiral dues with simple interest at the rate of 18% per annum from the date of retirement of petitioner till date of actual payment along with litigation cost of Rs. 30,000/- for delayed payment of pre and post retirement benefits and mental harassment to petitioner.”



3. The issue relates to grant of ACP to the petitioner while he was in service, which was later on withdrawn by the State of Jharkhand which also covered the case of the petitioner as at the relevant time, he was posted in the present State of Jharkhand when such order was passed against him. Challenge to the same before this Court ultimately travelled to the Division Bench which, by order dated 21.08.2017 in LPA No. 1298 of 2016, was disposed off giving liberty to the petitioner to challenge the same before the authorities in Jharkhand, as the cause of action arose in the State of Jharkhand. However, it was observed that depending upon the outcome of the said challenge, the appellant would be entitled to be paid or granted the consequential benefit accruing thereto from the State of Bihar. It appears that without the petitioner himself filing any application before the Jharkhand High Court, four other similarly situated persons filed WP(S) No. 5262 of 2014 before the Jharkhand High Court in which, by judgment dated 05.07.2016, such withdrawal of ACP was set aside. In the said case, the Court had also directed that the benefit of the order shall be given to other similarly situated officers also irrespective of the fact whether they are still in service or retired, without unnecessarily forcing them to approach to the Court for the same relief. In challenge to the same before the Division Bench of Jharkhand



High Court in LPA No. 99 of 2018, the prayer for interim stay of order of the judgment dated 05.07.2016 in WP(S) No. 5262 of 2014 (Shyam Narayan Dubey & Ors. vs. The State of Jharkhand & Ors.) was rejected.

4. Learned counsel for the petitioner submitted that in terms thereof, the State of Jharkhand has extended relief to all similarly situated persons, including the petitioner, but the State of Bihar has not issued consequential orders in terms of the order of the State of Jharkhand following the judgment of the Jharkhand High Court restoring the ACP earlier granted to the petitioner under order no. 762 dated 03.04.2007.

5. Having considered the matter, the Court would only observe that once the Division Bench of this Court in LPA No. 1298 of 2016, in the case of petitioner, by judgment dated 21.08.2017 has clearly observed that depending upon the outcome of the matter in Jharkhand, the petitioner would be entitled to be paid or granted the consequential benefits accruing thereto by the State of Bihar, no fresh order is required to be passed in the present proceeding. If the authorities do not comply with the same, it would be open to the petitioner to invoke the appropriate jurisdiction of this Court in the matter.



6. Accordingly, the writ petition stands disposed off in
light of the discussions made hereinabove.

(Ahsanuddin Amanullah, J)

Ranjeet/-

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