

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11505 of 2017

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Mohd. Mansoor Alam, son of Late Mahangu Mian, Resident of Mohalla-Kangahia Tola, Banglapar, P.O. Patnacity, P.S. Khajekalan, District and Town - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Minority Welfare Department, Government of Bihar, Patna
2. The Bihar State Sunni Waqf Board, through the Chief Executive Officer, Haj Bhawan, 34-Ali Imam Path, Harding Road, District- Patna
3. The Chairman, Bihar State Sunni Waqf Board, Haj Bhawan, 34 - Ali Imam Path, Harding Road, District- Patna
4. The Chief Executive Officer, Bihar State Sunni Waqf Board, Haj Bhawan, 34 - Ali Imam Path, Harding Road, District- Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Rashid Izhar, Advocate
For the Respondent/s	:	Mr.Durgesh Nandan- Aag14
For the Board	:	Mr. Helal Ahmad, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

3 21-05-2020

Heard learned counsel for the petitioner and the respondents.

The petitioner has filed the present writ application for the following reliefs:

“(i) Issuance of writ or writs in the nature of Mandamus commanding the Respondents No.2 to 4 to give the Petitioner benefit of first time bound promotion to which the Petitioner became entitled in the year 2002 after service of 10 years since 06.05.1992 to the Respondents Waqf Board as Routine Clerk which was denied to the Petitioner for decades but the time bound promotion is granted for the first



time, in favour of similarly situated other employees of the Board vide Board Resolution No. 45 dated 16.03.2017, but the case of the Petitioner is not considered.

(ii) Issuance of order / direction to pay the arrears of Salary with interest since grant of first time bound promotion to the Petitioner from the year 2003 since the Petitioner was entitled to first time bound promotion.

(iii) Issuance of order / direction to pay all other consequential benefits for which the petitioner is entitled on account of first time bound promotion.”

Learned counsel for the petitioner, when confronted about the objection of the Board that the claim is pre retiral, submits that the petitioner has since retired and therefore, he has filed the present writ application and no objection was taken to the filing of the writ application for post-retiral benefits.

The case was earlier heard on 16.05.2019 and no one has questioned the labeling of the present writ application.

Learned counsel for the petitioner with reference to Annexure-6 submits that the respondents have decided to grant benefit of ACP on 31.03.2017 to nine employees w.e.f. 09.08.1999, 08.03.2005, 08.06.2010 and 31.05.2013. He further submits that the petitioner qualifies for grant of benefit of first



ACP under the ACP Scheme in 2004 itself. He submits that the respondents have acted arbitrarily and discriminately in the matter of grant of ACP. He submits that the benefit was extended w.e.f. 1999 and thereafter when the petitioner was in job. The benefit was extended to other employees of the Waqf Board but petitioner was discriminated.

Counsel appearing on behalf of the Waqf Board has now raised the issue of labeling of the writ application. He submits that the present writ application, as post-retiral benefit has not appropriately labeled. He submits that the benefit is not admissible to the petitioner because he retired in 2013, whereas the benefit was granted to others in the year 2017. However, he has no answer to the fact that benefit was extended w.e.f. 09.08.1999 and thereafter admittedly the petitioner was in job. The petitioner retired on 31.12.2013.

Confronted with the aforesaid submission, learned counsel for the respondents submits that he may be granted time to file further counter affidavit.

The Court in the facts and circumstances of the case does not find any justification to adjourn the case, as the only issue involved in the present writ application is whether the



respondents can deny the benefit of ACP to the petitioner when he was in job on 09.08.1999 and retired on 31.12.2013 Annexure-6 shows that other employees were granted the benefit w.e.f. 1999 vide notification issued in 2017 effective w.e.f. 09.08.1999 then the respondent Board is required to verify the record and adopt corrective measure.

Under the aforesaid circumstance, the respondents are hereby directed to examine afresh the claim of the petitioner and if anyone has been granted the benefit including those mentioned in Annexure-6 with effect from the date anterior to the retirement of the petitioner, then respondent Board shall extend the benefit of ACP to the petitioner in terms of the ACP Rules at the earliest preferably within a period of three months from the date of receipt/production of a copy of this order.

With the aforesaid, the writ application stands disposed of.

(Anil Kumar Upadhyay, J)

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