

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 10444 of 2006

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Mangal Deo Singh, Son of Late Jagdish Prasad, Resident of Village and P.O. Phulori, P.S.-Sandesh, District-Bhojpur, presently residing at Qr. No./House No. J-91 People's Cooperative Colony, Kankarbagh, Patna.

... .. Petitioner/s

Versus

The State of Bihar and Ors

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	None.
For the State	:	Mr. Niraj Kumar, AC to GA-10
For the Accountant General	:	Mr. Arun Kumar Arun, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 09-12-2021

None appears for the petitioner.

In the instant petition, petitioner has prayed for the following reliefs:-

“For the direction to the respondents for the payment of annual increment of salary to the post of Assistant Engineer w.e.f. the due date of promotion, i.e., 27.12.1978 till the date of exemption given to the petitioner from the clearing the departmental examination according to the Bihar Public Works Department Code so that the order of the Hon’ble Court passed in C.W.J.C. No. 9794 of 99 on 31.03.2005 may be executed.

It is further prayed that the respondents may kindly be directed to give interest as decided by this Hon’ble Court in C.W.J.C. No. 1631 of 1996 on 10.04.1997.”



Pursuant to the order dated 02.12.2021, Secretary, Water Resources Department, Government of Bihar, Patna has filed counter affidavit on behalf of the Respondent Nos. 1 to 4. The petitioner grievance was rejected on 08.09.2005. The petitioner has not questioned the validity of the aforesaid order.

Crux of the matter in the present petition is whether the petitioner is entitled to exemption in passing certain departmental examination for the purpose of increment/promotion or not? Such exemption was granted only on 02.12.1997 (Annexure-5 to the writ application).

In the light of the aforesaid exemption of passing departmental examination, it is only prospective in nature and it cannot be given retrospective as claimed by the petitioner in the present petition w.e.f. 27.12.1978. That apart in para 9 and 10, State-respondent has specifically taken note *vide* order dated 31.03.2005 passed in CWJC No. 9794 of 1999 read with Civil Rule No. 123 of 2005 even the review application was dismissed on 09.10.2006. In the said decision, it is already taken note whether the petitioner was entitled to get annual increment with retrospective effect or not?

In the light of these facts and circumstances, the petitioner had remedy against the order passed in CWJC No. 9794



of 1999 and Civil Review No. 123 of 2009. Therefore, the second writ petition seeking writ of mandamus is impermissible. Once the petitioner has already suffered order before this Court and it has attained finality.

In view of these facts and circumstances, present petition stands dismissed with a cost of Rs. 10,000/-. Petitioner shall remit the cost with the Water Resources Department.

(P. B. Bajanthri, J)

Vikash/-

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

