

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24022 of 2018

=====

Jai Narayan Prasad S/o Late Kunj Bihari Singh, resident of Shivaji Nagar,
Sati Ashthan, P.O.-Masaurahi, P.S.-Masaurahi, District-Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department having his office at Vishweshsaraia Bhawan, P.S. Shastri Nagar, District Patna.
2. The Principal Secretary, Finance, Govt. of Bihar having his office at old Secretariate, P.S. Sachivalaya, District Patna.
3. The Engineer-in-Chief, Road Construction Department having his office at Vishweshsaraia Bhawan, P. S. Shastri Nagar, District Patna.
4. The Accountant General, Bihar, Patna having his office at Birchand Patel Path, P.S.- Kotwali, District Patna.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Vikas Mohan, Adv.
For the Respondent/s : Mr.Manoj Kr. Ambastha- Sc26

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date : 23-02-2021

The present writ petition has been filed for directing the respondents to consider the case of the petitioner for grant of benefit of 1st and 2nd Assured Career Progression Scheme upon completion of 12 years and 24 years of the service as also the consequential benefits thereof.

2. The learned counsels for the parties have relied upon a judgment rendered by this Court dated 18.06.2018 passed in CWJC No. 14609 of 2010 [**Bijay Kumar Sinha vs. The State of Bihar & Ors.**], the relevant portion whereof is reproduced herein below:-



“The learned counsel for the petitioner submits that the only reason for denial of the 1st and 2nd A.C.P. to the petitioner herein is the pendency of a departmental proceeding, as has been contended in the counter affidavit filed by the Respondents. The learned counsel for the petitioner relies upon a judgment reported in 2008(4) P.L.J.R. 244 (Ranjan Kumar Chauhan v. State of Bihar) to contend that in a similar situation where the petitioner of that case was denied grant of benefit of the A.C.P. Scheme on account of pendency of a departmental proceeding and a criminal proceeding, this Court had directed for considering the case of the said petitioner for granting the benefit of the Assured Career Progression Scheme.

It is a trite law that the benefit of Assured Career Progression Scheme is not a promotion in the sense of the term of a vertical movement from a lower post to a higher post, but it is only a grant of certain monetary benefits on the same post on account of stagnation on the said post. In such view of the matter, the Respondent-authorities cannot deny the grant of benefits of the Assured Career Progression Scheme to the petitioner herein, especially, in view of the fact that there is no such notification / circular of the State Government which bars grant of the benefits of the Assured Career Progression Scheme on account of pendency of either the departmental proceeding or a criminal proceeding.

In such view of the matter, I find that the petitioner is entitled to be granted the benefits of the Assured Career Progression Scheme de-hors the fact that a C.B.I case is pending against him.

Having regard to the facts and circumstances of the case, more particularly the fact that the Respondents, in their counter affidavit, have failed to produce any notification or circular of the State Government to show that the benefits of Assured Career Progression Scheme cannot be granted to a



person against whom either a departmental proceeding or a criminal proceeding is pending, the present writ petition is allowed and the Respondents are directed to grant the benefits of the 1st and 2nd Assured Career Progression Scheme to the petitioner within a period of four weeks from today. The consequential benefits be granted within a period of six weeks thereafter.
The writ petition is allowed.”

3. In the present case also, the petitioner has been denied benefits of the Assured Career Progression Scheme, as aforesaid, merely on the ground that a criminal case is pending against him.

4. This Court finds that the present case is squarely covered by the law laid down in the case of **Bijay Kumar Sinha** (supra), hence with the consent of the parties, the present writ petition stands disposed of in terms of the judgment rendered in the case of **Bijay Kumar Sinha** (supra). The Consequential benefits shall follow.

5. The writ petition stands disposed of.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.02.2021
Transmission Date	N/A

