

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.867 of 2018

In
Civil Writ Jurisdiction Case No.12998 of 2010

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Jai Ram Singh, S/o Late Ram Lakhan Prasad Singh, resident of Mohalla-
Imadpur, P.O. P.S.- Biharsharif, District- Nalanda.

... .. Appellant/s

Versus

1. The State Of Bihar, through the Commissioner-cum-Principal Secretary,
Rural Works Department, Government of Bihar, Patna.
2. The Deputy Secretary, Rural Works Department, Govt. of Bihar, Patna.
3. The Chief Engineer, Rural Works Department, Govt. of Bihar, Patna.
4. The Principal Secretary, Water Resources Department, Government of Bihar,
Patna.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Sunil Kumar Verma, Advocate

For the Respondent/s : Mr. Pratik Kumar Sinha, AC to GA-5

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE PURNENDU SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 20-12-2022

The present L.P.A. is against the order of the
learned Single Judge dated 19.03.2018 passed in C.W.J.C. No.
12998 of 2010.

2. Core issue involved in the present appeal is
whether appellant is entitled to 1st and 2nd ACP dated 09.08.1999
and 09.08.2003, respectively, or not? He was appointed as



Junior Engineer on 21.03.1979, while holding the post of Junior Engineer on 09.05.2008, an F.I.R. was filed for alleged offences under Sections 7/13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988. Whether filing of F.I.R. on 09.05.2008 would be hurdle in extending 1st and 2nd ACP, which is due to the appellant on 09.08.1999 and 09.08.2003 or not? Obviously filing of F.I.R. is subsequent to the date of due of ACP. In the light of these facts and circumstances, the appellant has made out a prima facie case for consideration of his name for granting 1st ACP in the year 1999 and 2nd ACP in the year 2003. The appellant is stated to have attained age of superannuation and retired from service on 30.11.2009. F.I.R. dated 09.05.2008 would not be hurdle insofar as extending the above service benefits in the light of Apex Court's decision in the case of ***Union of India v. K.V. Jankiraman, (1991) 4 SCC 109***, in para-17 it is held as under:-

“17. There is no doubt that there is a seeming contradiction between the two conclusions. But read harmoniously, and that is what the Full Bench has intended, the two conclusions can be reconciled with each other. The conclusion No. 1 should be read to mean that the promotion etc. cannot be withheld merely because some



disciplinary/criminal proceedings are pending against the employee. To deny the said benefit, they must be at the relevant time pending at the stage when charge-memo/charge-sheet has already been issued to the employee. Thus read, there is no inconsistency in the two conclusions.”

3. Therefore, the concerned respondent is hereby directed to revisit relating to claim of 1st and 2nd ACP of the appellant and proceed to consider his grievance and pass appropriate order within a period of three months from the date of receipt of this order. If he is otherwise eligible for 1st and 2nd ACP, necessary calculation shall be made and difference of amount shall be disbursed while re-fixing his pay, if the same is not paid to the appellant within a period of three months in that event the appellant is entitled to interest at the rate of 8% p.a. on arrears of pay & pension.

4. At this stage, learned counsel for the respondent submitted that during pendency of the litigation, in a departmental inquiry, the appellant was punished under Rule 43(b) of Bihar Pension Rules to the extent of withholding of 100% pension. It is a subsequent event, the same would not come in the way of consideration of appellant's grievance



relating to grant of 1st and 2nd ACP in the year 1999 & 2003, respectively, and so also he is entitled to monetary benefit.

5. Accordingly, the L.P.A. stands disposed of.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

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