

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8692 of 2022

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Jainath Mishra, aged about 62 years (Male) S/o Bholanath Mishra Resident of
Village- Mathuradih, Ward No.- 12, Thurki Khararo, Muzaffarpur, Turki
Khararo, Bihar- 843165.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Road Construction
Department, Government of Bihar, Patna.
2. The Chief Engineer Road Construction Department, Muzaffarpur.
3. The Superintending Engineer Road Construction Department, North Bihar
Circle, Muzaffarpur.
4. The Executive Engineer, Road Construction Division, Sheohar.

... .. Respondents

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Appearance :

For the Petitioner	:	Ms.Roona, Adv.
For the State	:	Mr. Amit Prakash,GA-13

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 25-11-2022 Today being Friday, matters are being taken up
through virtual mode, as per current procedure for hearing.

2. The petitioner's claim for benefit under the Assured
Career Progression Scheme (for short 'ACP Scheme') has been
rejected under order dated 25-04-2022 by the Superintending
Engineer, Road Construction Department, North Bihar Circle,
Muzaffarpur.

3. The learned counsel for the petitioner submits that



it is by now settled that non-passing of Accounts or such examination cannot be a ground for depriving the employee of benefits under the ACP Scheme in view of the Division Bench Judgment in ***LPA No. 372 of 2019*** in the case of ***State of Bihar & Ors. vs. Shri Krishna Singh & Anr.***

4. The learned counsel for the State fairly submits that the judgment of the Division Bench holds the field in this regard.

5. In view thereof, this Court would find rejection of the petitioner's claim by the impugned order to be contrary to the settled legal position and, therefore, unsustainable. The order dated 25-04-2022 passed by the Superintending Engineer, Road Construction Department, North Bihar Circle, Muzaffarpur is, therefore, quashed. The matter, therefore, is required to be considered in accordance with the decision of the Division Bench in ***LPA No. 372 of 2019***, more so, in view of the fact that the instant matter would be a "covered matters" under Clause 4(C)(1) of the Bihar State Litigation Policy, 2011.

6. The settled position being admitted, this Court would direct the respondent- Authorities to pass appropriate orders without raising any objection regarding non-passing of Accounts Examination; and amounts found due and



admissible, be paid to the petitioner within a period of 08 weeks from the date of receipt/production of a copy of this order.

7. The writ application stands allowed.

(Madhuresh Prasad, J)

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