

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1560 of 2018

In
Civil Writ Jurisdiction Case No.1322 of 2016

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Daya Kant Tanti S/o Late Jageshwar Tanti, R/o village - Barsam, P.O. Nadho,
P.S. and District - Saharsa.

... .. Appellant/s

Versus

1. The State of Bihar through the Agriculture Production Commissioner Bihar Patna.
2. Director Agriculture Plant Protection , Bihar, Patna.
3. Joint Director Agriculture Plant Protection , Bihar, Patna.
4. Deputy Director Plant Protection , Bihar, Patna.
5. Plant Protection officer, Saharsa.
6. Junior Plant Protection officer, Saharsa. null null

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Diwakar Prasad Singh
For the Respondent/s : Mr.Sarvesh Kumar Singh (Aag13)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAJIV ROY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 08-07-2022

The appellant has assailed the order of the learned single Judge passed in C.W.J.C. No. 1322 of 2016 dated 24.08.2018. Appellant's grievance in the writ petition is as follows:

“1. That this writ application is being filed with prayer of issuance of appropriate writ order or direction of writ in the nature of mandamus commanding the respondents for following main relief:

(i) That for issuance of appropriate writ/order/direction or writ



in the nature of mandamus commanding the respondents to grant benefit of two Assured Career Progress Scheme (A.C.P.), (one among the same from the 01.07.1988 & second from 01.07.2000), since the petitioner has Continuously worked as Supervisor [Plant Protection] since 01.06.1976 after his letter of Promotion issued under the signature of Director Agriculture Bihar Patna by letter No. 8762/Q Dated 27.05.76 but the petitioner Could joined on the post on 01.07.76 & retired on 31.07.08 after 32 years Continuously working on single post of Supervisor [Plant Protection] As such the petitioner is entitled to grant benefit of two Assured Career Progress Scheme (A.C.P.), (one among the same from the 01.07.1988 & second from 01.07.2000), besides grant of National promotion on Superior post of Inspector [plant protection] reckoning the same date of initial joining on the post of Supervisor [Plant Protection] on 01.07.76 to his retirement on 31.07.08.

(ii) That to direct the respondents to grant notional Promotion on the post of Inspector [Plant Protection] & then Junior Plant Protection Officer.

(iii) That to direct the respondents to grant all the consequential monetary benefit to the petitioner & revise the scale of the petitioner & thereafter revise Consequential pension fixed by the department Concerned.

(iv) That for grant of any other relief or reliefs to which the petitioner be found entitled in law be granted to them.”

In the counter affidavit, State has specifically taken contention at para 12 that there is no representation on



behalf of appellant and it was not countered by the appellant reiterating that he did submit representation in respect of grant of ACP benefits.

Learned single Judge passed following orders in
CWJC No. 1322 of 2016 dated 24.08.2018:-

“Heard Mr. Diwakar Prasad Singh, learned counsel appearing for the petitioner and Mr. Krishna Kant Singh, learned Assisting Counsel to Standing Counsel No. 10 for the State.

The petitioner prays for a direction to the respondents to grant him the benefit under the Assured Career Progression Scheme.

Considering that the petitioner superannuated on 31.07.2008 and has chosen to raise such issue after more than 8 years of his superannuation, the writ petition suffers from gross laches and delay and is dismissed accordingly.”

The aforesaid order would not be a hurdle on account of delay in seeking certain monetary benefits and no third party right is affected as held by the Apex Court in the case of *M.R. Gupta V. Union of India & Others* reported in *AIR 1996 SC 669*. Apex Court has held that if any monetary benefit is required to be adjudicated between employer and employee like re-fixation of pay and pension in that event every month cause of action would accrue. At the best employee is not entitled to arrears for three years prior to filing of petition.



In the light of these facts and circumstances, order of the learned single Judge dated 24.08.2018 passed in C.W.J.C. No. 1322 of 2016 would not come in the way of considering the appellant's grievance relating to benefit of Assured Career Progression. If he is otherwise eligible and entitled in this regard, appellant is hereby directed to furnish a detailed representation along with service particulars read with relevant ACP Scheme to contend that appellant is eligible for benefit of ACP. Such representation shall be furnished to the competent authority within a period of eight weeks from today. On receipt of such representation, the competent authority is hereby directed to decide the appellant's representation to be submitted within a period of three months from the date of receipt of such representation and pass speaking order and communicate the same to the appellant.

With the above observations, the present Letters Patent Appeal stands disposed of.

(P. B. Bajanthri, J)

(Rajiv Roy, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	28.07.2022
Transmission Date	

