

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11595 of 2018

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Rajesh Kumar Sharma Son of late Mohan Lal Sharma Resident of F-159,
Ward No. 02, Kosi Colony, Post office- Birpur, Police Station- Birpur,
District- Supaul.

... .. Petitioner/s

Versus

1. The State Of Bihar through Principal Secretary, Water Resources Department, Bihar, Patna
2. The Chairman, Board of Revenue, Bihar, Patna.
3. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
4. The Chief Engineer, Water Flood Control and Water Drainage, Water Resource Department, Birpur, Supaul
5. The Superintending Engineer, Design, Planning and Monitoring Circle, Water Resource Department, Birpur, Supaul

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Singh, Adv
For the Respondent/s : Mr. Sanjay Kumar, AC to AAG-4

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 19-09-2022

The petitioner has prayed for quashing of the order dated 24.08.2017 bearing memo no. 2351 insofar as it relates to the petitioner. By this impugned order, the Chief Engineer (Respondent No. 4) has cancelled the financial progression granted to the petitioner under the Assured Career Progression Scheme (ACPS) with effect from 22.11.2010. The consequential order issued by the Superintending Engineer (Respondent No. 5) on 20.09.2017 has also been assailed.

2. Learned counsel for the petitioner, in support of aforesaid prayer, has submitted that the issue now stands settled



as per decision of the Division Bench in the case of ***State of Bihar & Ors. v. Shri Krishna Singh & Anr.*** reported in **2022 (2) PLJR 773**.

3. Considering the various decisions passed by this Court earlier, reliance has been placed on decision in the case of ***State of Bihar & Ors. v. Smt. Jivachi Devi*** reported in **2020 (2) BLJ 471**, the Division Bench has found that the petitioner therein are entitled to grant of benefits under the ACP Scheme, rejecting the objection raised by the State regarding non-passing of accounts or departmental examination. Since in the instant case, respondent No. 4 has directed for cancelling the ACP granted to the petitioner earlier on ground of non-passing of departmental examination, the cancellation of ACP is unsustainable.

4. The learned State counsel, on the other hand, submits that decisions being relied upon by petitioner, have been rendered by this Court after the decision of respondent No. 4 to cancel the benefits granted to the petitioner under ACPS. The decision/s of the Division Bench, relied upon by the petitioner, therefore, would not apply in the instant case.

5. The objection raised by the State Counsel has been noted only to be rejected. The Division Bench in the case of



Shri Krishna Singh (supra) has taken into account the law laid down by successive Division Benches right from the decision in the case of ***State of Bihar v. Anjani Kumar*** reported in **2013 (2) PLJR 643** and various other cases. Relying on these decisions, Division Bench has held that refusing benefits of financial progression on the ground of non-passing of accounts or departmental examination is unjustified.

6. The decisions referred to are of the year 2013, much prior to passing of the impugned order in the instant case. The Court, therefore, does not find any substance in the objection raised by the learned State counsel. The Court would also take into consideration the provisions contained in Clause 4.C(1) of the Bihar State Litigation Policy 2011, which reads as follows:

“4.C(1). A good number of cases are from the category of similar cases. Each Government Department will aim to consider and settle the claim of the representationist/ applicant employee/ citizen, if the claim is found covered by any decision of the Court. Many service matters of this nature, can be disposed of at the level of the Department itself without compelling the litigant to come to the Court. In this manner, the



Government Departments would be acting as efficient litigants.”

7. In view of the consideration above, this Court does not find any justification for cancellation of the financial progression granted under the ACPS to the petitioner by the impugned order dated 24.08.2017. The same is hereby quashed. As a result, the consequential order dated 20.09.2017 is also quashed.

8. The petitioner is entitled to and must be paid the due and admissible benefits along with a calculation chart showing how the amount has been arrived at, within a period of eight weeks from the date of receipt/production of the copy of this order.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	30.09.2022
Transmission Date	NA

