

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22806 of 2018

Yadunandan Prasad S/o Sri Baldeo Prasad, . Village- Chakmohiuddinpur, P.O. Mohiuddinpur, P.S.- Hilsa, District- Nalanda.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Engineering-in-Chief-Cum- Special-Secretary, Public Health Engineering Department, Bisheshwariya Bhavan, Belly Road, Bihar, Patna.
3. The Chief Engineer Mechanical, Public Health Engineering Department, Bisheshwariya Bhawan, Belly Road Bihar, Patna.
4. The Chief Engineering Civil Public Health Engineering Department, Bisheswariya Bhavan, Belly Road, Bihar, Patna.
5. The Superintending Engineer, Public Health Engineering Circle-Patna
6. The Executive Engineer, Public Health Engineering Division- Hilsa, District Nalanda.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Siyaram Pandey, Advocate
For the Respondent/s : Mr. Vijay Kumar Sinha, AC to AAG 5

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 08-12-2022

Heard Mr. Siyaram Pandey, learned counsel appearing on behalf of the petitioner and Mr. Vijay Kumar Sinha, learned AC to AAG 5 for the State.

2. The present writ petition has been filed for the following reliefs:

(i) Revise the post-retirement benefits of the petitioner including pension, gratuity, leave encashment and other dues by counting the total length of service spent under work charge establishment for all effect and purposes and for all service



benefits including back wages and continuity in service.

(ii) For payment of arrear since 17.04.2002 to 25.10.2007 as the said Retrenchment/Reversion was illegal and bad in the eye of law.

(iii) For grant of second ACP as the petitioner has worked in the department for the period of 29 years, i.e., since 12.03.1987 to 31.01.2016.

3. The short facts which led to the filing of the present writ petition is that the petitioner was initially appointed on the post of “Fitter” under the work charge establishment vide letter no. 19 dated 12.03.1987 issued by the Superintending Engineer, PHED, Patna.

4. It is submitted that he worked continuously in the work charge establishment and has been allowed regular pay and subsequently he was granted promotion to the post of “Fitter Grade-I” vide office order No. 31 dated 04.05.1994, however, all on a sudden, the petitioner along with other work charge employees were reverted from the status of work charge to the daily wage employee and the petitioner was retrenched from service on 13.04.2002. Against the order of retrenchment, the petitioner and other moved before this Court and the matter went up to the Hon’ble Apex Court and pursuant to the direction of the Hon’ble Apex Court, the petitioner was absorbed vide Memo No.



787 dated 26.10.2007. He further submits that on being absorbed, the petitioner again continuously worked and finally superannuated on 31.01.2016, however, during this period the petitioner has neither been allowed promotion nor any financial progression was given to the petitioner apart from other admissible dues which compelled the petitioner to move before this Court.

5. Learned counsel for the State submits that the petitioner had earlier filed CWJC No. 14952 of 2009 and the Hon'ble Court having heard the parties has been pleased to dispose of the writ application with a direction to the authorities to consider the case of the petitioner and pass a reasoned and speaking order in the light of the discussions made in the order, itself.

6. The case of the petitioner was duly considered by the Secretary, PHED and an order as contained in Memo No. 814 dated 24.09.2013 came to be passed and the services of the petitioner working under the work charge establishment has been taken into account for all the purposes, save and except the period in which the petitioner remained out of the service was not found admissible for salary.

7. At this juncture, learned counsel for the petitioner submits that though the decision has been taken at the level of the



Secretary, PHED, Bihar but till date no retiral and any outstanding benefits has been allowed to the petitioner by taking into account the past services of the petitioner with effect from 13.03.1987, the date on which he entered into the work charge establishment. He further submits that the petitioner has not been allowed the financial progression under the first and second ACP for which he was entitled under the scheme apart from other reliefs. He also relied upon other judgment of this Court which has been brought on record by way of filing rejoinder to the counter affidavit.

8. Heard, learned counsel for the petitioner and the State, admittedly having considered the case of the petitioner in terms of the order of this Court dated 24.11.2009 passed in CWJC No. 14952 of 2009, the services of the petitioner working under the work charge establishment has been directed to be taken into consideration for all the purposes and if any benefit, much less, retiral benefit and the benefit of ACP has not been accorded till date in consonance with the order passed by the Secretary, PHED, the same is wholly unjustified and improper.

9. This Court directs the Secretary, PHED, Bihar to ensure all the benefits, including the retiral benefits as well as the benefit under the Assured Career Progression Scheme in terms of



the order as contained in Memo No. 814 dated 24.09.2013 preferably within a period of eight weeks from today.

10. Accordingly, the present writ petition stands disposed of.

11. It is needless to say that the consequential order of financial benefits must be granted within the aforesaid period. If the petitioner has still any other grievance, he can avail further remedy before the appropriate forum.

(Harish Kumar, J)

shivank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.12.2022.
Transmission Date	NA

