

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16914 of 2015

=====

Shambhu Narayan Lal, son of Late Surajdeo Lal, resident of Village- Piprahi,
P.S. - Raghapur, Dist. - Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Secretary, Water Resource Department, Govt. of Bihar, Patna.
3. The Chief Engineer, Water Resource Department, Govt. of Bihar, Patna.
4. The Executive Engineer, Irrigation Division, Raghapur, Dist. - Supaul.
5. The Accountant General, Bir Chand Patel Path, Patna, Bihar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Gautam Bose, Sr. Advocate
		Mr. Arvind Kumar, Advocate
For the Respondent/s	:	Mr. Ashok Kumar Pathak, AC to GP-21
For the Accountant General:		Mr. Raj Nandan Prasad, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 14-12-2022

Heard Mr. Gautam Bose, learned senior counsel, duly
assisted by Mr. Arvind Kumar, learned counsel for the petitioner,
Mr. Ashok Kumar Pathak, learned AC to GP-21 and Mr. Raj
Nandan Prasad, learned counsel for the Accountant General.

2. The present writ application has been filed seeking a
direction upon the respondent authorities to ensure payment of
arrears of salary on the basis of pay scale of 6th pay revision, which
are due for the period 01.01.2006 to 31.07.2008 to the petitioner
and further prayer to direct the respondents to ensure financial
progression under ACP scheme and its entire consequential
benefits to the petitioner in terms of the ACP Rule, 2003.



3. Before coming to the issue involved in the present writ application, it would be relevant to mention here that earlier this Court vide 19.09.2017 having considered the facts that the petitioner unauthorizedly occupied the quarter for about eight long years, even after his superannuation has been pleased to dismiss the writ petition.

4. On being aggrieved, the petitioner preferred Letters Patent Appeal, bearing L.P.A. No. 61 of 2018, and the learned Division Bench of this Court, vide order dated 09.07.2018, partly allowed the Letters Patent Appeal restoring the present writ petition (C.W.J.C. No. 16914 of 2015) to the extent to consider the prayer for grant of ACP only, as claimed in the writ petition and nothing more.

5. Today, the matter has been listed and learned senior counsel for the petitioner submits that the issue with regard to grant of financial progression under the ACP Scheme to the persons, who have not passed the Account examination, have set at rest by the learned Division Bench of this Court in various cases. He vehemently relied upon the judgment rendered by the learned Division Bench of this Court in the case of **State of Bihar and others Vs. Jivachi Devi**, reported in **2020 (2) BLJ 471 (PHC)**. He next submitted that some of the persons, who was also appointed



on the post of Moharrir, they have been allowed the benefit of financial progression under the ACP Scheme. The name of some of the similarly situated persons have been disclosed in para. 4 of the reply/rejoinder to the counter affidavit filed on behalf of respondent nos. 3 and 4.

6. On the other hand, learned counsel for the State opposed the submissions made on behalf of the learned senior counsel appearing on behalf of the petitioner, however, he is unable to confront the ratio laid down by learned Division Bench of this Court rendered in the case of **State of Bihar and others Vs. Jivachi Devi** (supra).

7. This Court thinks it apt to quote the relevant paragraph of the judgments of learned Division Bench rendered in the case of **State of Bihar and others Vs. Jivachi Devi** (supra) for proper appreciation of the issue involved in the present case.

7. In view of the aforesaid legal position, the present writ application stands disposed of with a direction to respondent no.3 (Chief Engineer, Water Resources Department, Government of Bihar) to consider the case of the petitioner for grant of financial progression under the ACP scheme and pass necessary order in terms of the order passed by the learned Division Bench of this Court, as discussed herein above, and also taking into



consideration that other similarly situated persons have been allowed the benefit of ACP preferably within a period of eight weeks from the date of receipt/production of a copy of this order.

8. It is needless to observe that if the case of the petitioner finds favour, necessary financial benefit is also to be bestowed upon him within the aforesaid period.

9. Accordingly, the present writ application stands disposed of with the aforesaid observations.

(Harish Kumar, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.12.2022
Transmission Date	NA

