

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17378 of 2019

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Bibha Devi Wife of Late Shivesh Kumar Karn R/o Sarahi More Paswan Tola
Road, Naya Bazar, Ward no. -3, Nagar Parishad, P.S. Saharsa, District Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar through the Commissioner cum Principal Secretary to Govt. in the Finance Department, Old Secretariat, Patna
2. The Joint Secretary to Govt. in the Finance Department Old Secretariat, Patna
3. The District Establishment Committee Saharsa through its Chairman
4. The District Magistrate Saharsa Collectorate, Saharsa
5. The Additional Collector Saharsa Collectorate, Saharsa
6. The Deputy Collector/Establishment Saharsa Collectorate, Saharsa
7. The Sub Divisional Officer Simri Bakhtiyarpur P.O. and P.S. Simri Bakhtiyarpur, District Saharsa

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suresh Chand Giri, Advocate
For the Respondent/s : Mr. Raghwendra Kumar (SC-22)

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 26-09-2022

The writ application has been filed claiming benefits under 2nd Assured Career Progression (ACP) Scheme of petitioner's husband with effect from 01.01.2009 and the arrears difference arising out of such grant.

2. The petitioner's husband was appointed against Class-IV post on 28.11.1983 which he joined on 01.12.1983 in the Motihari Collectorate. While in service, he participated in limited competitive test organised by the Motihari Collectorate. He was declared pass and appointed on Class-III post on



29.12.1987, which he joined on 30.12.1987.

3. In light of the Board of Revenue, Government of Bihar letter dated 01.09.1993 bearing No. 13191, the petitioner's husband as a result of inter-district transfer was relieved on 24.09.1993 to join in the district of Saharsa. Admittedly benefits of the financial progression under first ACP were granted to the petitioner's husband on 30.08.2007, with effect from 30.12.1999, i.e., after completion of 12 years in Class-III service. The same was withdrawn vide communication contained in memo no. 942-2/Est. dated 29.11.2010 issued by the Additional Collector Saharsa. The order also contemplated recovery of excess amount paid, which was to be done in 20 equal installments.

4. The same order was assailed in CWJC No. 452 of 2011, earlier filed by the petitioner. This Court on 11.01.2016 quashed the order of recovery as being violative of the principles of natural justice. Prior to the order, no opportunity as required by principles of natural justice was afforded to the petitioner.

5. The authorities, in compliance with order passed by the writ Court, restored the benefits of 1st ACP granted to the petitioner's husband during pendency of the contempt



petitioner's husband during pendency of the contempt proceedings arising out of MJC No. 2729 of 2016. The petitioner, therefore, is aggrieved by non-grant of second financial progression under the ACP scheme.

6. It is in this circumstance that the petitioner now claims benefits of second financial progression with effect from 01.01.2009.

7. Respondents in the counter-affidavit relied upon notification dated 25.06.2003 to submit that specific guideline has been sought from the Principal Secretary, General Administrative Department with respect to the petitioner's entitlement under communication dated 31.01.2017.

8. Reliance on the said communication in the opinion of the Court, in view of the fact that the respondents admittedly have restored grant of 1st ACP benefits to the petitioner's husband with effect from 30.12.1999, is unsustainable. Since the respondents have granted the benefits of 1st ACP with effect from 30.12.1999, grant of 2nd progression under ACP scheme would be admissible to the petitioner on completion of the *Kalawadhi* specified in the ACP scheme. Therefore, there exists no dispute as of today with respect to the date on which the petitioner would be entitled to second progression benefits



under the ACP Scheme. The authorities, therefore, should accordingly pass a reasoned and speaking order on the second/other financial progressions due and admissible to the petitioner. The amount found due must be paid along with a calculation chart showing how the dues have been arrived at.

9. The entire exercise must be completed within a period of three months from date of receipt/production of a copy of this order.

10. The writ petition is allowed with aforesaid observation.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	01.10.2022
Transmission Date	NA

