

IN THE HIGH COURT OF JUDICATURE AT PATNA
Miscellaneous Jurisdiction Case No.2194 of 2022

In
Civil Writ Jurisdiction Case No.13426 of 2022

=====

Rakesh Kumar, Gender- Male, aged about 57 years, Son of Late Sharda Nand Lal, resident of Nand Bhawan, Gandhi Path, Mithapur, Post Office G.P.O., Police Station- Gardanibagh, Patna -800001, Bihar.

... .. Petitioner

Versus

1. The State of Bihar through the Principle Secretary, Department of Industries, Government of Bihar, Patna.
2. The Director, Directorate of Handloom and Sericulture, Department of Industry, Bihar, Patna.
3. The Additional Director of Industries, Department of Industry, Bihar, Patna.

... .. Opposite Parties

=====

Appearance :

For the Petitioner/s : Mr. Mrigank Mauli, Sr. Adv.
For the Opposite Party/s : Mr Abbas Haider SC-6

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 21-12-2022 This matter has been listed under the heading FOR

ORDERS (ON OFFICE NOTES).

Defect is ignored and the modification is being
considered.

The present petition has been filed for modification in the
order dated 15-09-2022 passed in CWJC No. 13426 of 2022.

On 15.09.2022, this Court, in C.W.J.C. No. 13426 of
2022 filed by the petitioner, passed the following order:-

*“The petitioner's benefits under the Assured
Career Progression (ACP) Scheme have been
withdrawn under communication dated
11.06.2014 issued by the Director, Handloom and*



Silk, Bihar, Patna. His appeal is pending consideration as is apparent from Annexure-6. The appeal is said to have been filed on 01.06.2020 before the Secretary, Industry Department-cum-Chairman, Bihar State Litigation Policy, Bihar, Patna.

Learned counsel for the petitioner submits that he would be supplementing his pending appeal by placing on record decision of the Division Bench of this Court in LPA No. 372 of 2019 wherein it has been held that for non-passing of departmental examination, the benefits of ACP cannot be denied.

In view of such submission, since the consideration now has to be done by appellate authority, the writ application need not be kept pending. The same is disposed of.

If the petitioner supplements his appeal within three weeks, then it is expected that the appellate authority will take a final decision within 8 weeks thereafter.”

Learned senior counsel submits that the first page of Annexure-6 was not concerning the petitioner and, inadvertently, a document alien to the petitioner's claim was annexed as the first page of Annexure-6. He, therefore, submits that the Authority are reluctant to consider the petitioner's claim. The petitioner has also filed his supplementary, pursuant to the order of the Court dated 15.09.2022, copy of which is Annexure- P/3 to the instant application for modification. The petitioner thereafter has submitted a representation afresh on



29.10.2022, through registered post.

Since the order in the writ petition was not on merits of the petitioner's claim, the subsequent events are being taken notice of to modify the order with the expectation that the Appellate Authority will take a final decision in compliance of order dated 15.09.2022, passed in C.W.J.C. No. 13426 of 2022, considering the supplement of the petitioner dated 22.09.2022, (Annexure- P/3) as well as the representation dated 29.10.2022, (Annexure- P/5) within eight (08) weeks' from the date of receipt/production of a copy of this order in the office of the Principal Secretary, Department of Industries, Government of Bihar, Patna (Respondent No. 1).

The order stands modified.

Modification application is allowed.

(Madhuresh Prasad, J)

shyambihari/-

U			
---	--	--	--

