

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16593 of 2013

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Baidyanath Prasad Son Of Late Maheshwar Prasad Resident Of Mohalla
Bahadurpur, Krishna Talkies Road, Police Station Samastipur, District-
Samastipur

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Road Construction Department,
Vishwesharaiya Bhawan, Bailey Road, Patna
2. The Engineer-In-Chief, Road Construction Department, Vishwesharaiya
Bhawan, Bailey Road, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rupak Kumar, Adv.
For the Respondent/s : Mr. Rameshar Singh, GP-25

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 06-07-2023

1. The present writ petition has been filed seeking the
following relief:-

“1. That this writ application is filed for issuance
of writ in the nature of mandamus directing the
respondents to consider the case of the petitioner
for grant of first and second ACP from 9.8.1999
with all consequential benefits.”

2. At the outset, the learned counsel for the petitioner seeks
liberty on behalf of the petitioner to approach the Respondent
authorities for grant of first and second ACP with effect from
9.8.1999 and in support of his case, he relies on an order dated
18.6.2018, passed in CWJC No. 14609 of 2010 (Bijay Kumar
Sinha vs. The State of Bihar & Ors.) by this Court, relevant



paragraphs whereof are reproduced hereinbelow:-

“The learned counsel for the petitioner submits that the only reason for denial of the 1st and 2nd A.C.P. to the petitioner herein is the pendency of a departmental proceeding, as has been contended in the counter affidavit filed by the Respondents. The learned counsel for the petitioner relies upon a judgment reported in **2008(4) P.L.J.R. 244 (Ranjan Kumar Chauhan v. State of Bihar)** to contend that in a similar situation where the petitioner of that case was denied grant of benefit of the A.C.P. Scheme on account of pendency of a departmental proceeding and a criminal proceeding, this Court had directed for considering the case of the said petitioner for granting the benefit of the Assured Career Progression Scheme.

It is a trite law that the benefit of Assured Career Progression Scheme is not a promotion in the sense of the term of a vertical movement from a lower post to a higher post, but it is only a grant of certain monetary benefits on the same post on account of stagnation on the said post. In such view of the matter, the Respondent-authorities cannot deny the grant of benefits of the Assured Career Progression Scheme to the petitioner herein, especially, in view of the fact that there is no such notification / circular of the



State Government which bars grant of the benefits of the Assured Career Progression Scheme on account of pendency of either the departmental proceeding or a criminal proceeding.

In such view of the matter, I find that the petitioner is entitled to be granted the benefits of the Assured Career Progression Scheme de-hors the fact that a C.B.I case is pending against him.”

3. Having regard to the facts and circumstances of the case, I deem it fit and proper to grant liberty to the petitioner to approach the Engineer-in-Chief, Road Construction Department, Patna, for grant of the benefits of first and second ACP, who shall, while deciding the claim/ entitlement of the petitioner, consider the aforesaid judgment, rendered in the case of Bijay Kumar Sinha (supra).
4. The writ petition stands disposed off.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	6.7.2023
Transmission Date	NA

