

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17632 of 2013

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Raj Keshwar Singh Son Of Late Indradeo Singh Resident Of Village Post
Poewa, P.S. Aurangabad M, Distt. Aurangabad. At Present West Of Sinha
College, Ranjan Bhawan, P.O. P.S. Distt. Aurangabad Bihar

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Building Construction Department, Government Of Bihar, Patna
3. The Superintending Engineer, Building Construction Department, Bhawan Anchal, Gaya
4. The Executive Engineer, Building Construction Department, Building Division, Nawadah
5. The Account Officer, Nawada
6. The Accountant General, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Singh, Advocate.
For the Respondent/s : GA-10

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 24-01-2023 Heard learned counsel for the parties concerned.

2. The petitioner was appointed as Accounts Clerk in Road Construction Department on 1.3.1974 and in 1983 the Road Construction Department merged in Building Construction Department. The ACP Scheme was introduced with effect from 9.8.1999. As per the Scheme of A.C.P., the employees who have completed 12 years of service shall have to be given the benefit of 1st A.C.P. and after completion of 24 years of service, second ACP is to be granted.



3. The petitioner completed 12 years of his service on 1.3.1986 and completed 24 years of service in the year 1998. The petitioner was given benefit of 1st and second ACPs with effect from 9.8.1999, but actual payment has been given to the petitioner with effect from 28.3.2006. The petitioner retired on 1.8.2011 and his pension has been fixed on the basis of ACP benefit given to him with effect from 28.3.2006.

4. Learned counsel for the petitioner submits that though the petitioner has completed the required number of 12 years of service for grant of ACP in 1986 and 1998 but by an order dated 27.02.2007, the petitioner was granted the benefit of 1st and 2nd ACP with effect from 9.8.1999. However, arbitrarily, actual monetary benefit arising thereof has been given with effect from 28.3.2006. Learned counsel next submits that grant of actual financial benefit with effect from 28.3.2006 for both ACPs is unreasonable having no basis.

5. On the other hand, learned counsel for the State submits that since the petitioner was required to pass Accounts examination for grant of ACP and the petitioner was exempted from passing the same vide Memo No. 644 dated 28.3.2006, due to which, the actual monetary benefit arising out of both ACPs has been granted to the petitioner from the date of exemption



i.e. 28.3.2006.

6. In reply, learned counsel for the petitioner submits that a Division Bench of this Court in a judgment passed in L.P.A. No. 599 of 2015 dated 19.3.2018 (Ramadhar Thakur Vs. the State of Bihar and Ors.) has held that passing of departmental Accounts examination is not a condition precedent for grant of Assured Career Progression under the ACP Rules nor Rule 157(3)(J) of the Bihar Board's Miscellaneous Rules conceives of such requirement.

7. I have heard learned counsel for the parties.

8. It is an admitted position that the petitioner has been granted ACPs by the respondent with effect from 9.8.1999. The Division Bench of this Court in aforesaid judgment (supra) has held that there is no requirement for passing of departmental Accounts examination for grant of ACP.

9. In view of the law laid down by the Division Bench of this Court, the fixation of cut-off date by the respondents for grant of actual monetary benefit to the petitioner with effect from 28.3.2006, i.e. the date when the petitioner was exempted from passing the Accounts examination, is erroneous and not sustainable.

10. Accordingly, Annexure-4 is set aside to the



extent that the petitioner will be entitled for payment of actual monetary benefits arising out of ACPs granted to him with effect from 9.8.1999. The respondent/authorities are directed to pay the consequential benefit to the petitioner with effect from 9.8.1999 to 27.3.2006 within a period of four weeks from the date of receipt/production of a copy of this order.

11. This writ application stands disposed of with aforesaid observation and direction.

(Anil Kumar Sinha, J)

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