

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18477 of 2013

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Keshwar Tiwary Son Of Late Sri Ramashish Tiwary Resident Of Village -
Gorari, P.S. Karakat, In The District Of Rohtas At Sasaram

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Director, Information And Public Relation, Bihar
3. The District Information And Public Relation Officer, Aurangabad, Bihar
4. The Accountant General, Birchand Patel Path, Patna - 1

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhikshek Kumar, Adv.
For the Respondent/s	:	Mr. Rajesh Kumar, AC to GP-3
For the A.G.	:	Ms. Nivedita Nivikar, Adv.
		Ms. Kriti Suman, Adv.

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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 19-01-2023

1. Heard the parties.

2. The petitioner admittedly was appointed on 04.10.1973, as a class IV employee. He has claimed benefit of the first A.C.P. as well as the second A.C.P. after he has retired in the year 2003.

3. Learned counsel for the petitioner submits that the petitioner has given explanations for approaching this court belatedly on the ground that he has suffered mental shock and agony on account of death of his young son after retirement, who was ailing for long. The writ petition has been filed therefore in 2013, after he came to know that his case for first



A.C.P. has been rejected. The respondents were put to notice who have filed their counter and it is admitted that the petitioner was appointed in 1973 and was granted the upper pay scale on completion of 10 years of service with effect from 10.10.1983 as a Class IV employee. However, the Departmental Screening Committee rejected his case for granting first A.C.P. on the ground that the writ petitioner did not complete a minimum 10 years of service till his retirement. A document has been placed on record along with the counter as Annexure-D, placing the minutes of the Departmental Screening Committee.

4. A look at the said Departmental Screening Committee minutes reflects that the petitioner's case was not considered eligible for grant of first A.C.P. on the ground that he had been promoted as a Cinema operator on 08.06.1996, and therefore, he did not complete 12 years as on 30.11.2003 when he retired. Leaned counsel for the petitioner has pointed out that the petitioner was promoted as a cinema operator on 30.05.1992. A document in this regard has been placed on record as Annexure-3. He, thus, completes 12 years even on the post of cinema operator.

5. The provisions of grant of first A.C.P. and second A.C.P. are essentially for the purpose of granting benefit to an



employee who stagnates on a particular post for 12 years or more and 24 years or more. Thus, if the case of the petitioner is examined, it is noticed that he was granted first promotion in a Class-IV post only on 10.10.1983 and was promoted as a cinema operator on 30.05.1992, he would, therefore, not be eligible for grant of first A.C.P. on class IV post but the calculation conducted by the screening committee treating him to have been promoted as cinema operator on 08.06.1996 is found to be bad in law. He would have to be treated to have been promoted from the day promotion orders were passed i.e. 30.05.1992 (Annexure-3) and counting 12 years from thereto, it is noticed that before he retired he had already completed 12 years as cinema operator. He would, therefore be entitled to first A.C.P. and a higher pay scale to the pay scale of cinema operator, which was existing at that time equivalent to 1200-1800/-.

6. Accordingly, this writ petition is allowed. The respondents are directed to calculate the petitioner's pay and allowances by granting him first A.C.P. on completion of 12 years from 30.05.1992, and accordingly, also revised his pension and other post retiral emoluments and release the arrears of pension and post retiral emoluments to him along with



interest @ 9% per annum from the date they were due.

6. The said exercise shall be completed within a period of 3 months henceforth.

7. The writ petition is accordingly allowed. No cost.

(Sanjeev Prakash Sharma, J)

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Item no.16

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