

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19487 of 2014

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Anamesh Singh son of Late Ramadas Singh resident of village Pathak Bigha,
P.O. - Muragan, Via - Ishanpur, P.S. - Hulasganj, District - Jehanabad, at
present Junior Engineer, posted in the Office of Executive Engineer, Local
Area, Engineering Organisation, Work Division No. 1, Motihari, District -
Motihari, East Champaran.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Pradhan Sachiv Principal Secretary, Water Resources Department, Govt.
of Bihar, Patna.
3. The Deputy Secretary to the Govt. Water Resources Department, Govt. of
Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Janardan Singh
For the Respondent/s	:	Mr.Gautam Bose
		Mr.Ashok Kumar Dubey, AC to AAG-11

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 17-01-2023 **IA No. 9946 of 2015**

This interlocutory application has been filed for
addition of prayer and adding respondent no. 4 as party
respondent. Through this IA No. 9946 of 2015 petitioner has
challenged the order bearing Memo No. 4240 dated 01.09.2015
whereby and whereunder the matter of granting the benefit of 1st
and 2nd ACP to the petitioner was kept pending.

In view of the aforesaid fact, the prayer made in IA
petition be treated as the part of main application. Accordingly,
IA No. 9946 of 2015 stands allowed.



Heard counsel for petitioner and learned AC to AAG-
11 appearing on behalf of State.

This writ petition has been filed for quashing the order dated 01.09.2015 bearing Memo No. 4240, as contained in Annexure-7 whereby the prayer of petitioner for grant of 1st and 2nd ACP has been rejected on the ground of pendency of Annexure-6 whereby petitioner filed a detailed application on 26.07.2013 to the Principal Secretary, Water Resources Department, Government of Bihar, Patna/respondent no. 2 and prayed him to give him the benefit of ACP from the date, from which the persons junior to him were given, but the petitioner did not receive any reply to his application. With further prayer for direction to the respondent no. 2 to give the benefit of ACP with all consequential benefits in view of the government resolution dated 11.09.2002 (Annexure-1), order dated 20.06.2005 passed by this Hon'ble Court in CWJC No. 9099 of 2002, order dated 05.05.2009 passed in CWJC No. 11665 of 2002 and the order dated 07.12.2012 passed in CWJC No. 21128 of 2012.

It has been contended by the learned counsel for the petitioner that the benefit of 1st and 2nd ACP has been denied to the petitioner simply on the ground that a criminal case bearing



Vigilance PS Case No. 19 of 1987 dated 12.08.1987 is pending against this petitioner is completely in the teeth of judgment of this Court and in breach of Para-6 of the government resolution dated 11.09.2002 as contained in Annexure-1 to the writ petition. It is next submitted that in view of para 6 of the said resolution (Annexure-1 to the writ petition) provides that if disciplinary proceeding/criminal case remains pending for more than two years, then cases of government servant shall be considered for ad hoc promotion on consideration of the entire record and pendency of such cases shall not come on way to the ad hoc promotion. He fairly contended that in view of paragraphs 7, 8 and 9 of the said resolution, such ad hoc promotion are to be given conditionally. Learned counsel for the petitioner further submits that his juniors have been granted promotion and have been granted benefits of Assured Career Progression (ACP), but the same has been denied to the petitioner on the ground of pendency of vigilance case for no fault.

Learned counsel for State submits that prior to considering the matter of the petitioner for granting the benefits of 1st and 2nd ACP by the Water Resources Department, Bihar, Patna the status of vigilance case and other information were



taken into consideration which reveals the facts that the Water Resources Department, Bihar Patna has given its approval for prosecution against the petitioner vide Memo No. 5555 dated 25.07.1990 and chargesheet has also been filed by the Vigilance Department against the petitioner in Vigilance Case No. 19 of 1987. He next submits that in view of pendency of the vigilance case the benefits of ACP was denied and kept pending by the department. It is next submitted that the matter of petitioner along with other persons for granting the benefit of 1st and 2nd ACP were put up before the Departmental Screening Committee in its meeting dated 14.07.2015 for its consideration, but the same was denied and kept pending by the Departmental Screening Committee on the ground of pendency of vigilance cases.

This Court vide order dated 20.06.2055 passed in CWJC No. 9099 of 2002, order dated 05.05.2009 passed in CWJC No. 11665 of 2002 and the order dated 07.12.2012 passed in CWJC No. 21128 of 2012 took notice of government resolution dated 11.09.2002 which provides that where a disciplinary proceedings/criminal case remains pending for more than two years, the case of the Government servant is required to be considered for ad hoc promotion on consideration



of the entire records and the pendency of the case shall not come in the way of the ad hoc promotion.

In that view of the matter, this court therefore, holds that petitioner is entitled to be considered for benefit of ACP and other consequential benefits, he is otherwise eligible, this writ petition is disposed of with direction to the Principal Secretary Water Resources Department, Government of Bihar, Patna to consider the case of petitioner for grant of ACP in accordance with law and keeping in view the orders of this court as contained in Annxure-1 series to the writ petition and after verifying the claim of the petitioner with the other persons in whose cases orders were passed by this Court have already been granted benefits.

It is expected that final decision in the matter may be taken in accordance with law within period of four months from the date of receipt/production of a copy of this order.

With the aforesaid observation, this writ petition stands allowed.

(Prabhat Kumar Singh, J)

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