

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10379 of 2012

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RAM BHAWAN RAM Son Of Late Lal Mohan Ram Resident Of Village -
Amhara, P.S.- Bihta, District - Patna

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The Principal Secretary, Water Resources Deptt. Govt. Of Bihar, Patna
3. The Under Secretary, Water Resources Deptt. Govt. Of Bihar, Patna
4. The Chief Engineer, Central Design And Research, Water Resources Deptt.
Anishabad, Patna
5. The Superintending Engineer, Research And Training, Khagaul, Patna
6. The Executive Engineer, Research And Training Division No. 2, Khagaul,
Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shailesh Kumar Sharma, Advocate
For the Respondent/s : Mr. Tej Bahadur Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 11-12-2023

Heard Mr. Shailesh Kumar Sharma, learned counsel

for the petitioner and learned counsel appearing for the State.

2. The present writ application has been filed for the
following reliefs:

(I) For issuance of an appropriate writ for quashing the
Memo No.937 dated 30.09.2012 issued under the signature of
Chief Engineer, Central Design and Research, Water Resources
Department, Patna by which the Ist time bound promotion w.e.f.
01.04.1993 of the petitioner has been cancelled without providing
any opportunity of hearing and also assigning the reason that the



petitioner has not passed the departmental accounts examination in fact there is no such provision for the Store Keeper to pass the departmental accounts examination.

(II) For issuance of an appropriate writ for quashing the letter No. 175 dated 12.04.2012 issued under the signature of Executive Engineer Research and Training Division No.2 Khagaul, Patna by which the Memo No.937 dated 30.09.2012 has been given effect by which the fixation of pay after cancellation of Ist time bound promotion has been made.

(III) For issuance of an appropriate writ for commanding and directing the respondents to restore petitioner's Ist time bound promotion and pay salary of other benefits thereof.

(IV) For issuance of an appropriate writ for directing the respondents to grant the A.C.P. of the petitioner.

3. The impugned order issued under the signature of respondent No.4 by which the Ist time bound promotion of the petitioner which has been granted earlier w.e.f. 01.04.1993 has been cancelled on the ground that the petitioner has not passed the requisite examination as required for the Ist time bound promotion i.e. accounts examination with requisite qualification of Ist time bound promotion as per Rule.



4. Learned counsel for the petitioner submits that that the petitioner was initially appointed on the post of Chawkidar in workcharge establishment alongwith other persons w.e.f. 09.10.1971. Thereafter, the petitioner was again appointed to the post of Peon in the regular establishment vide letter No.371 dated 08.06.1979. Thereafter, the petitioner was appointed to the post of Store Keeper vide letter No. 1244 dated 18.05.1983 issued under the signature of respondent No.5 and thereafter the petitioner has received letter dated 21.05.1983 which suggests that the appointment of the petitioner on the post of Store Keeper has been approved/concurred by the Establishment Committee.

5. Learned counsel for the petitioner submits that after completion of 10 years of service of the petitioner and he has been given the Ist time bound promotion w.e.f. 01.06.1993 vide Memo No. 734 dated 19.12.1994 issued by the respondent No.4. Thereafter, as per resolution of the Finance Department, Ist time bound promotion of the petitioner was approved/confirmed by the Divisional Commissioner vide Memo No. 644 dated 31.12.2001. The Department has taken decision in the year 1984 that the post of Accounts Clerk and the Store Keeper are separate and from a bare perusal of the order dated 25.04.1984 (Annexure-6) it appears that for the grant of Ist time bound promotion, Store



Keeper is not required to pass the accounts examination and the Ist time bound promotion of the petitioner has been denied/recalled on the ground that that petitioner has not passed the accounts examination and when the matter of the petitioner was considered for grant of MACP, the Department has taken decision that the petitioner has not passed the accounts examination so his initial Ist time bound promotion is cancelled in view of the fact that his Ist time bound promotion is cancelled and he is not entitled for MACP. Learned counsel for the petitioner further submits that now the petitioner has been retired so his retiral benefits shall be calculated on the basis of the aforesaid revision.

6. Learned counsel for the State, on the other hand, referring the counter affidavit, stating therein that the petitioner is not entitled to get promotion without passing the accounts examination as per Miscellaneous Rule which was issued in the year 1980 itself.

7. In view of the aforesaid, it appears that the respondent authority has illegally cancelled the Ist time bound promotion of the petitioner contrary to Annexure-6 which was passed by the Department which suggests that there is no requirement of passing the Accounts Examination of the persons who hold the post of Store Keeper.



8. In view of the aforesaid, the order dated 30.09.12 and 12.04.2012 are set aside and the respondent-authorities are directed to pay all the consequential benefits to the petitioner within a period of three months from the date of receipt/production of a copy of this order and the respondent authorities are also directed to examine the case of the petitioner whether he is entitled for MACP or not, if he is entitled for the MACP, he will also get consequential benefits within the aforesaid period and petitioner is also entitled his revised pension.

9. Accordingly, this writ application stands allowed.

(Rajesh Kumar Verma, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.12.2023
Transmission Date	14.12.2023

