

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10264 of 2018

=====

Yogendra Ram, Son of Pancha Raut, Resident of Village- Chandpur, P.O.-
Sikandarpur, P.S.- Sangrampur, District- East Champaran Motihari.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Secretary, Department of Animal Husbandry and Fisheries, Government of Bihar, Patna.
2. The Director Directorate of Animal Husbandry Department, Patna.
3. The Regional Director, Department of Animal Husbandry, Magadh Range, Gaya.
4. The District Animal Husbandry Officer, Nawada.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Saroj Kumar, Advocate
For the State : Mr. Navnit Kumar (AC to GP-18)

=====

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 05-10-2023

Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for
considering the case of the petitioner for the recommendation of
his application for exemption from passing the examination of
the accounts which the petitioner could not have passed even
after his continuous appearance upto the age of 50 years and
eventually stands retired on 30.04.2012 from the office of the
Animal Husbandry, Nawada without getting the benefit of ACP.

3. Learned counsel for the petitioner submits that the



petitioner has retired from the service on 30.04.2012 from the post of Lekhapal (Accountant) from the office of Animal Husbandry, Nawada. He further submits that initially, the petitioner had joined the post of Chowkidar in the office of Deputy Director, Department of Animal Husbandry, Central Range, Patna on 10.12.1973 and with the span of time, he was promoted to the post of Clerk by the order of Regional Joint Director, Animal Husbandry Department, Central Range, Patna vide memo No. 30 dated 05.01.1979 and started getting the pay scale of Rs. 220-315.

4. Learned counsel further submits that the petitioner has also passed the Hindi noting and drafting examination held in the year 1984 but he was unsuccessful in clearing his Account examination in the year 1989 and further passed the same examination in the year 1995. Counsel further submits that the petitioner passed his first paper of Account examination on completion of 50 years and submitted his representation before the District Animal Husbandry, Officer, Nawada on 09.08.2008 for recommendation and forwarding the same to the higher officer for grant of exemption from passing the account examination. Subsequently, the petitioner retired from the service in the year 2012. Thereafter, the petitioner had filed



CWJC No. 8981 of 2015 with a prayer for payment of his arrears which was disposed of vide order dated 19.05.2017 by this Hon'ble Court. Thereafter, the retiral dues amount of the petitioner has been paid, but the case of consideration of his exemption from passing the account examination which he made in the year 2008 (Annexure-1) has not been taken into consideration. Thereafter, the petitioner has filed the present writ petition.

5. Learned counsel for the State submits that a counter affidavit has been filed in this case. From the counter affidavit, particularly from Annexure-C series, Letter No. 12 R/5040-78 ka/1925, dated 21.06.1978 and, subsequently vide letter No. 11691 dated 09.11.1983 (Annexure-A) which is related to the grant of exemption from passing a departmental examination in which according to Clause 6, it appears that the power of granting exemption order has been vested in the departmental Ministers. But subsequently, another letter No. 4674 dated 15.05.1992 by which modification has been made in the earlier letter No. 11691 dated 09.11.1983. According to this the power for granting exemption has been vested in the departmental Secretary and the Divisional Commissioner as the case may be.



6. Learned counsel for the State further submits that letter No. 758 dated 25.04.2019 annexed as annexure- C series to the counter affidavit suggests that since the petitioner has not prayed for exemption during his service period, therefore, his case has not been considered.

7. Upon going through the pleadings and documents, it transpires to this Court that in the light of the letter No. 4674 dated 15.05.1992, the power to grant exemption from departmental examination has been vested in the departmental Secretary and Divisional Commissioner as the case may be. The stand of the District Animal Husbandry, Officer, Nawada is also not correct that the petitioner has not filed an application for granting exemption which is apparent from Annexure-1 of the writ petition by which it transpires that the petitioner has filed representation on 09.08.2008 for granting exemption prior to his retirement.

8. In this view of the matter, this writ petition is disposed of directing the petitioner to file a representation before the appropriate authority i.e. the Secretary, Department of Animal Husbandry and Fisheries, Government of Bihar, in light of clause 6 of the letter No. 4674 dated 15.05.1992 annexed by the respondent in Annexure-C series of the counter affidavit



within four weeks along with a copy of this order whereupon the Secretary, Department of Animal Husbandry and Fisheries, Government of Bihar, is directed to pass a reasoned and speaking order on the representation filed by the petitioner within 3 months thereafter.

9. With this observation and direction, this present writ petition stands disposed of.

(Dr. Anshuman, J.)

Divyansh/Ashwini

AFR/NAFR	
CAV DATE	NA
Uploading Date	09/10/2023
Transmission Date	NA

