

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7762 of 2012

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Chandra Shekhar Upadhaya Son Of Late Harshdeo Upadhaya Resident Of
Village-Chela, P.S. Sandesh, Distt.-Bhojpur Ara At Present Sheikhpura,
Bagicha Patna-24

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Superintending Engineer, Advance Planning Circle, R.C.D., Nirman Bhawan, Campus, Patna
3. The Executive Engineer, State Highway Road, Construction Division, Hazipur
4. The Chief Engineer, Advance Planning Being Bihar Road Contractor Department, Nirman Bhawan Campus P
5. The Engineer-In-Chief-Cum-Dy. Commissioner-Cum-Special Secretary, Bihar Road Construction Departmen
6. The Secretary, Path Nirman Department Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Randhir Kumar No-1, Advocate
For the Respondent/s : Mr. Sanjay Kumar Ghoswami, A.C. to A.A.G 3

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 30-10-2023

Heard learned counsel for the petitioner as well as
learned counsel appearing on behalf of the State.

2. The present writ petition has been filed for quashing the office order no. 23 issued by the Respondent No. 2 as contained in Gypank No. 483 dated 21.12.2011 on the ground that the petitioner was not fulfilling the eligibility as laid down by the Finance Department vide notification no. 1802 (B) dated 23.03.2006.



3. Initially, the present petitioner was appointed on the post of Peon on 04.08.1961 and thereafter, he was appointed as a Correspondence Clerk on the said vacant post on 06.08.1979 and the petitioner was given first time promotion after completion of 10 years of his services w.e.f. 06.08.1989 vide notification dated 09.01.1991. Thereafter, he was superannuated from the said post after attaining the age of 58 years on 31.10.2000.

4. He further submits that thereafter, the petitioner has approached this Hon'ble Court in CWJC No. 18508 of 2009 against the order of cancellation of his first time promotion which was cancelled vide order dated 19.06.2009 which was set aside by this Hon'ble Court vide order dated 05.04.2010 in CWJC No. 18508 of 2009. Learned counsel for the petitioner further submits that from perusal of the impugned order it appears that the State Government has taken decision that those employees who have completed 12 years of service and service completed of 24 years they were entitled for A.C.P benefits.

5. Learned counsel appearing on behalf of the State has vehemently opposed the prayer of the writ petitioner and submits that the petitioner was not entitled for first and second ACP in view of the Circular of the Finance Department No.



1802 dated 23.03.2006 and the petitioner was duly intimated by by the Department vide order dated 21.12.2011 as per the circular of the Finance Department that the petitioner has not passed the Accounts Examination, neither he has been given exemption for the said examination.

6. Considering the facts of the aforesaid circular, the petitioner is not entitled for grant of benefit of first and second A.C.P. and the writ petition stands dismissed.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	Nil
Uploading Date	07.11.2023
Transmission Date	Nil

