

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4992 of 2020

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Anand Bhagwan Choudhary S/o Late Amar Choudhary, R/o-Village-Bengahi,
P.S.-Bengahi, District-Sitamarhi, Bihar-843313.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Road Construction,
Government of Bihar, Patna.
2. The Chief Engineer, (Yatayat), North Bihar, Road Construction Department,
Darbhanga.
3. The Superintending Engineer, Road Construction Department, North Bihar
Circle, Muzaffarpur.
4. The Executive Engineer, Road Division, Sitamarhi.
5. The Treasury Officer, Sitamarhi.
6. The Accountant General (A and E), Birchand Patel Path, Patna, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Ms. Roona, Adv.
For the State	:	Mr. Subodh Kumar (AC to SC-26)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 08-08-2024 Learned counsel for the petitioner and learned counsel
for the State are present.

2. It has been jointly submitted by the parties that the
present case is fully covered in the light of Hon'ble Full Bench
decision in case of Kamlanand Thakur Vs. The State of Bihar &
Ors. in Civil Writ Jurisdiction Case No.18727 of 2017 with
analogous cases.

3. As such, the present writ petition stands disposed
off directing the Chief Engineer, (Yatayat), North Bihar, Road
Construction Department, Darbhanga (respondent no.2) to pass



order afresh in the light of Hon'ble Full Bench decision whose paragraph no.48 is quoted as under:-

“48. Thus, the questions stand answered as follows :-

(A.) Rule 157(3)[J] of the Bihar Board's Miscellaneous Rules, 1958, requiring passing of Departmental Accounts Examination for promotion, is not applicable in case of grant of A.C.P. benefits under the A.C.P. Rules, 2003;

(B.) Rule 157(3)[J] of the Bihar Board's Miscellaneous Rules, 1958 is confined to passing of preliminary examination/final examination in Accounts only for the purposes of confirmation, crossing the efficiency bar and promotion to Selection Grade only and not for regular promotion;

(C.) Rule 4(5) of the A.C.P. Rules, 2003 even though provides that the prescribed requirements and mode of sanction of financial progression under the scheme (A.C.P. scheme) shall be the same which are prescribed under the Recruitment/Service Rules for regular promotion against vacancies and if the Rules/Resolutions prescribe passing of Departmental Examination or any qualification for promotion, that shall



also be an essential condition for sanction of benefit under the scheme will not affect the claim for grant of A.C.P. after completion of twelve/twenty four years of service for the reason that such financial progression under the A.C.P. scheme is only in situ promotion and nothing more. This is even notwithstanding any such requirement of passing any Departmental Examination or acquiring any educational qualification for promotion under the Service/ Recruitment/ Promotion Rules.”

4. Petitioner is directed to file a fresh representation before the Chief Engineer, (Yatayat), North Bihar, Road Construction Department, Darbhanga (respondent no.2) who shall pass a reasoned and speaking order in the light of Hon’ble Full Bench decision within 90 days thereafter.

(Dr. Anshuman, J)

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