

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2970 of 2020

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Randhir Kumar Jha Son of Late Baidyanath Jha, resident of Village-
Binababhangama, District- Supaul at present posted as Head Clerk, Flood
Control Division Bounsi, District- Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Flood Control and Water Resources Department, Government of Bihar, Patna.
2. The Chief Engineer Flood Control and Water Resources Department, Katihar Government of Bihar.
3. The Superintending Engineer Flood Control Circle Bhagalpur.
4. The Executive Engineer Flood Control Division Bounsi District- Banka.
5. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Raja Ram Mishra, Adv.
For the Respondent/s : Mr.Sudhanshu Bhushan, AC to GP7

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 08-08-2024 Heard learned counsel for the petitioner and learned
counsel for the State.

2. Counsel for the petitioner submits that the present writ petition has been filed for quashing the office order No.85 issued under Memo No.2622 dated 20.12.2019.

3. Counsel further submits that the Full Bench of this Hon'ble Court has decided the matter vide judgment dated 28.06.2024 passed in CWJC No. 18727 of 2017 (***Kamlanand Thakur V. The State of Bihar and Ors.*** with other analogous cases) and dispute has been resolved. He submits that the present matter is squarely covered by the decision of Hon'ble



Full Bench whose paragraph 48 has given categorical direction in this regard.

4. Counsel for the State submits that Annexure-5 of the writ petition is barrier for the petitioner because decision has been taken by the authority.

5. Upon hearing the parties and perusal of records of this case, this Court feels it necessary to quote the relevant paragraph 48 of the Full Bench judgment rendered in CWJC No. 18727/2017, 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."

6. In the light of the pleadings made, it transpires to this Court that till existence of Annexure-5, passed by respondent No.2, namely, the Chief Engineer Flood Control & Water Resources Department, Katihar, the petitioner could not get any relief in the light of the Hon'ble Full Bench decision. As such, the Annexure-5 *i.e.*, order No.85 issued under Memo No.2622 dated 20.12.2019 is hereby quashed.

7. It is directed to the petitioner to file a fresh



representation before respondent No.2, namely, the Chief Engineer Flood Control& Water Resources Department, Katihar within 30 days from today along with a copy of this order and the concerned authority is directed to pass a reasoned and speaking order on the representation of the petitioner afresh within 90 days thereafter. It is made clear that if the petitioner is found entitled to 2nd A.C.P. then the said benefit be granted to him within 90 days thereafter.

8. With the aforesaid observation and direction, the present writ petition stands disposed off.

(Dr. Anshuman, J.)

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