

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4657 of 2020

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Chandra Bhushan Rai Son of Late Sukeshwar Rai, Resident of Village-
Ahiyapur, Krishna Nagar, P.O.-Bhikhanpur, P.S.-Ahiyapur, District-
Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Finance Department,
Government of Bihar, Patna.
2. The Director, Provident Fund Directorate, Finance Department, Pant
Bhawan, Bailey Road, Patna.
3. The Deputy Director, Provident Fund Directorate, Finance Department, Pant
Bhawan, Bailey Road, Patna.
4. The District Provident Fund Officer, Samastipur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ranjeet Kumar Mr. Ayush Kumar, Adv Mr. Kanishk kaushik, Adv Mr. Shikhar Mani, Adv
For the Respondent/s	:	Mr.Raghwendra Kumar (Sc22)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 04-07-2024 Learned counsel for the petitioner and counsel for
the State are present.

2. The present writ petition has been filed for setting
aside the order contained in letter no. 5487 dated 23.09.2019
issued under the signature of the Director, Provident Fund
directorate, Finance Department, Bihar, Patna whereby and
where under rejected the claim of the petitioner with regard to
grant benefits of ACP/MACP in view of Rule 157(5)(J)(b) Bihar
Board Miscellaneous Rule, 1958, Letter No. 11691 dated
09.11.1983 of the General Administrative Department and Rule



4 (5) of the ACP Rules, 2003 further for setting aside the Letter No. 7016 dated 19.11.2019 issued under the Signature of Deputy Director, Provident Fund Office, Finance Department, Bihar Patna whereby and where under the concerned respondents declined to grant benefits of ACP/MACP to the petitioner and for directing the respondent authorities to grant the benefits of ACP/MACP to the petitioner in light of the judgment passed in L.P.A. No. 599 of 2015 by the Hon'ble High Court along with all consequential benefits w.e.f, 09.08.1999.

3. Learned counsel for the petitioner submits that the petitioner was entitled for A.C.P but his claim was rejected only on the ground that he has not passed the examination of accountancy, therefore, he has challenged the said order of rejection in the present writ petition.

4. Counsel for the State submits that vide order dated 28.06.2024 passed in C.W.J.C. No. 18727 of 2017 with analogous cases, Hon'ble Full Bench of this Court has already decided this issue and petitioner may be directed to file fresh representation in the light of said Full Bench Decision.

5. Upon perusal of the order passed by Hon'ble Full Bench in C.W.J.C. No. 18727 of 2017, the Hon'ble Full Bench has decided this dispute in question as follows:

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 Rule.

6. In the light of the Full Bench decision passed in C.W.J.C. No. 18727 of 2017, both the orders i.e. the orders challenge in this case namely order contained in letter no. 5487 dated 23.09.2019 issued under the signature of the Director, Provident Fund directorate, Finance Department, Bihar, Patna and Letter No. 7016 dated 19.11.2019 issued under the Signature of Deputy Director, Provident Fund Office, Finance Department, Bihar Patna are hereby set aside.

7. Petitioner is directed to file fresh representation



within 30 days along with the order passed by this Court and Respondent No. 2 shall passed reasoned and speaking order in the light of the representation made by the petitioner within 90 days thereafter,

8. Accordingly, this writ petitioner is hereby disposed off.

(Dr. Anshuman, J)

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