

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 5291 of 2020

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Ramanand Das, Son of Late Devilal Das, Resident of Village - Mohiuddinpur,
P.S.- Ghosi, District- Jehanabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the secretary Cum Inspector General of Registration Department Govt. of Bihar Vikash Bhawan, Patna.
2. The Deputy Inspector General, Registration, Department, Govt. of Bihar, Vikash Bhawan, Patna.
3. The District Magistrate, Cum District Registrar, Gaya.
4. The Sub Registrar Sherghati, District- Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arvind Prasad Singh
For the Respondent/s : Mr.Vivek Prasad (GP7)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 08-08-2024 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The petitioner has filed the present writ petition directing to the respondents to grant promotion of the petitioner on the post of Upper Division Clerk from the post of Lower Division Clerk w.e.f. 08.05.1997 with consequential benefits including the grant of ACP be paid to him.

3. Counsel for the petitioner submits that the petitioner has joined service in the office of Sub-Register, Hazaribagh by the Memo No.133 dated 03.02.1994 issued by the Inspector General of Registration Department Government of Bihar, Patna and subsequently transferred in Registry office, Aurangabad vide Memo No.662 Hazaribagh, dated 18.05.1994.

4. Counsel further submits that he was appointed as



temporary clerk on 03.02.1994 on the basis of recommendation made by the Awar Seva Chayan Parishad and letter issued by the Registration Department, Government of Bihar dated 03.02.1994, the name of the petitioner was mentioned in Serial No.39. He further submits that the petitioner was transferred to Registry office, Nawada from Registry office, Aurangabad by virtue of office order No.1551 dated 29th June, 2002 issued by the Registry department, Government of Bihar, Patna.

5. Counsel further submits that the petitioner was subsequently transferred in 2003 to the Registry office, Gaya and his service was confirmed on the post of Junior Division Clerk by Bihar Registration Clerk Rule, 2004 and the name of the petitioner is mentioned in Serial No.75 of the promotion list. He further submits that in the year 2012, he was transferred to Registry office, West Champaran issued by the Excise Department, Government of Bihar and the petitioner's name was figured in Serial No.123. He further submits that in the year 2018, he was transferred to Registry office, Gaya from West Champaran issued by the Excise and Registration Department, Government of Bihar and the petitioner's name was figured in Serial No.64. Subsequently, he joined Sherghati and joined the post of Junior Division Clerk and thereafter, the order of promotion on the post of Upper Division Clerk has been issued



by the Secretary-cum- Registration Inspector General, Bihar Patna in which the petitioner's name has been listed at Serial No.25.

6. Counsel further submits that the petitioner has filed application on several occasions with request to grant promotion on the post UDC from the post of Junior Division Clerk w.e.f., 08.05.1997, but no decision has been taken and subsequently, he has made made several representations, but nothing happened.

7. Counsel further submits that one similarly situated person has moved before this Hon'ble Court in C.W.J.C. No.4618 of 2010 and prayed for promotion to the respondent for grant of promotion on the post of UDC from JDC and then Hon'ble Court has pleased to direct the respondent authorities to pass a reasoned and speaking order and thereafter, the said colleague of the petitioner has been granted promotion on the post of UDC on 08.05.1997 with consequential benefit.

8. Counsel further submits that during pendency of the writ petition, the supplementary counter-affidavit has been filed in this matter in which vide Memo No.5396 dated 19.10.2023, it was shown that the petitioner was granted promotion w.e.f. 13.10.2023. he further submits that till date grievance of the petitioner has not been settled.

9. Counsel for the State on the other hand submits that



from paragraph 6 of the counter-affidavit, it become clear that the grievance of the petitioner for grant of promotion has already been provided, but the benefit of A.C.P. was recalled on the ground of non-passing of Account paper in departmental examination.

10. Counsel further submits that the case of the petitioner may be decided in the light of decision made in the Full Bench of this Hon'ble Court 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) for entitlement of A.C.P of the petitioner for which he may file representation before the concerned authority.

11. From the submissions made, it transpires to this Court that two reliefs have been demanded by the petitioner and he is entitled for those reliefs because of Clause 4(C) of the Bihar State Litigation Policy, 2011 and demanding his promotion *w.e.f.* 1997 and grant of ACP, particularly after Hon'ble Full Bench decision in the case of Kamlanand Thakur V. The State of Bihar and Ors. (*supra*) whose paragraph 48 clearly indicates that there is no need of passing departmental examination for grant of A.C.P. The 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."

12. In this background, the present writ application is hereby disposed off granting liberty to the petitioner to file a fresh representation before Inspector General of Registration Department, Government of Bihar, Patna 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 for promotion and A.C.P. then, the said benefit be granted to him within 90 days thereafter.

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

(Dr. Anshuman, J.)

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