

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5220 of 2020

Binod Kumar Shriwastawa Son of Late Harakh Narayan Prasad, Resident of Opposite Pushpanjali Apartments, Late harihar Yadav Road, Saristabad Road (Kachchi Talab), Gardanibagh, P.S.-Gardanibagh, Patna-800001.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. Principal Secretary, Road Construction Department, Government of Bihar, Patna.
3. Chief Engineer, Central Design Organization, Road Construction Department, Government of Bihar, Patna.
4. Executive Engineer, Building Construction Department, Building Division, Patna.
5. Accountant General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anju Kumari @ Anju Narain, Adv.
For the Respondent/s : None

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 26-09-2024 Heard Learned Counsel for the petitioner. No one appears either on behalf of the State or on behalf of the Accountant General, Bihar, Patna.

2. The present writ petition has been filed for the following relief/s:-

"(i) Issuance of an appropriate writ including a writ in the nature of writ of mandamus commanding the respondents to forthwith grant and pay the benefits of 2nd ACP to which the petitioner was/ is eligible and entitled and on such grant and payment the pay



scale of the petitioner of Rs. 5500-9000 with effect from 09.08.1999 would become Rs. 6500-10500 which be kindly ordered to be granted and paid and the pay of different succeeding years would accordingly be calculated with the due increments and all other consequential benefits relating thereto

(ii) Issuance of an appropriate writ including a writ in the nature of writ of mandamus commanding the respondents to pay all the dues of money upon correct fixation of pay with interest @ 12% per annum as the petitioner has been made to suffer on account of inordinate delay made by the respondents in fixation and grant of the due pay scale, for which the petitioner / respondents made correspondence till 2019 and even otherwise the petitioner is also entitled to adequate compensation in this regard.

(iii) Issuance of any



other appropriate writ(s), order(s), direction(s) as may be deemed fit and proper in the facts and circumstances of the case."

3. Learned Senior Counsel for the petitioner submits that the petitioner was appointed on 22.12.1964 as Laboratory Assistant in the Public Work Department, Government of Bihar. He joined at Chandil, District- Singhbhum on 13.01.1965. Subsequently, he was transferred at various offices of PWD at Khagaria, Dumaria Ghat near Motihari, Muzaffarpur, Patna. At Patna he was placed in the advanced planning, Testing Research Institute (TRI) and also in Ganga Bridge project at Guljarbagh. Counsel submits that on 15.12.1999 the petitioner was promoted to the post of Research Assistant in the pay scale of Rs. 5000-8000 from the earlier pay scale of Rs. 3200-4900 of Laboratory Assistant, according to the implementation of the 6th Pay Revision with effect from 01.01.1996. Counsel submits that the Government has introduced ACP scheme with effect from 09.08.1999 and the pay scale of the Government servant was enhanced on two occasions upon completion of 12 years of service for the first time and upon completion of 24 years of service for the second time. Counsel further submits that after introduction of MACP scheme in 2009, the benefits has to be



granted on completion of 10 years, 20 years and 30 years. Counsel submits that in the mean time the petitioner has superannuated from the service on 30.09.2004 from the post of Research Assistant in the pay scale of 5000-8000 after completion of 39 years and 8 months of service. Counsel submits that on 09.03.2009, Executive Engineer, Building Construction Department, Building Division, Patna (respondent No. 4) had issued office order which was communicated through Memo No. 1287 dated 09.03.2009 stating that in terms of Finance Department resolution No. 4685 dated 25.06.2003 with regard to ACP scheme in compliance of the said Finance Department resolution the office of Chief Engineer communicated a letter contained in Memo No. 01 dated 01.01.2009 in which the petitioner's pay scale was enhanced in the pay scale of Rs. 5500-9000. In this regard, the office of Chief Engineer had issued a letter dated 09.03.2009 in which pay scale as notified was revised on grant of first and second ACP. Counsel submits that the petitioner was retired on 30.09.2004. In the year 2019, he has filed his representation before the Accountant General Department, Bihar, Patna to fix his last salary at the tune of Rs. 50,500/- in the light of 7th Pay Revision. Counsel submits that the said order has been duly



forwarded by the Executive Engineer of the department but till date no decision has been taken by the Accountant General Department, Bihar, Patna in support of his claim. Learned Counsel has relied on Annexure- 7 which is an order in the form of order no. 35 dated 29.07.2019 passed in favour of Amanullah Khan whose case is exactly similar to that of the petitioner. Counsel submits that the Bihar State Litigation Policy, specially clause 4C has a status of legislation and binding on all concerned, his representation is pending before the Accountant General, Bihar, Patna as Annexure- 4. Counsel submits that case is of 2020, this Court had specifically directed to the Accountant General, Bihar, Patna to file counter affidavit which has not been complied till date. Counsel submits that Chief Engineer had also recommended the case of the petitioner before the Accountant General Department, Bihar, Patna but A.G. Department has sat over the matter.

4. In the light of the submissions made and on perusal of the documents on record, it transpires to this Court that the petitioner has submitted his representation vide Annexure- 4 duly forwarded through Executive engineer and subsequently for his case the Chief Engineer has also sent the letter to the Accountant General Department, Bihar, Patna.



5. In this background, this Court hereby directs the Accountant General, Bihar, Patna to take decision on the representation of the petitioner within 90 days from the date of receipt/production of a copy of this order and this aspect must be taken into consideration that the representation of the petitioner has been forwarded by Executive Engineer further letter has been issued by the Chief Engineer and if it has been found that the case of the petitioner is exactly similar to the case of Amanullah Khan, in whose favour writ petition CWJC No. 18426 of 2014 was disposed off, using the provision of law, namely, Clause 4C of the Bihar State Litigation Policy, the Accountant General, Bihar, Patna shall decide this matter in favour of the petitioner, and if it has been found that the petitioner's case is not covered under Clause 4C of the Bihar State Litigation Police, then in that case the Accountant General, Bihar, Patna shall pass a reasoned and speaking order within the said period.

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

Aman Kumar/-

U			
---	--	--	--

(Dr. Anshuman, J.)

