

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4549 of 2020

Ram Kishor Lal Shrivastava Late Chandrika Prasad Shrivastava Resident of Ward No.-1, Hospital Road Shiv Mandir, Birpur, P.S. Birpur District Supaul, Retired Senior Accounts Clerk Office of Executive Engineer Mechanical Division, Birpur, Supaul.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary Govt. of Bihar, Patna.
2. The Finance Secretary, Finance Department, Government of Bihar, Patna.
3. The Secretary (Expenditure), Finance Department, Government of Bihar, Patna
4. The Principal Secretary, Water Resources Department, Government of Bihar, Patna.
5. The Engineer-in-Chief Cum Additional Secretary- Cum-Special Secretary, Water Resources Department, Government of Bihar, Patna.
6. The Chief Engineer Mechanical, Water Resources Department, Patna.
7. The Chief Engineer, Irrigation Srijan, Water Resources Department, Saharsa.
8. The Superintending Engineer Mechanical Circle Water Resources Department, Birpur, Supaul.
9. The Superintending Engineer, Irrigation Circle, Saharsa.
10. The Executive Engineer, Mechanical Division, Birpur, Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Mishra, Adv
For the Respondent/s : Mr.Harish Kumar (Gp8), APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 08-08-2024 Heard learned counsel for the petitioner and learned counsel for the State.

2. The present writ petition has been filed for quashing of the letter no. 221 dated 23.02.2019 and letter no. 570 dated 08.06.2019 issued by the Executive Engineer, Irrigation Mechanical Division, Birpur whereby the claim of the petitioner to grant 1st and 2nd ACP in Pay Scale of Rs 6500-



10,500/- and 10,000-15,200/- has been rejected and further for directing the respondents to grant 1st and 2nd ACP to the petitioner in the light of the Judgment dated 28.11.2017 passed in C.W.J.C. No. 18433/2016.

3. learned counsel for the petitioner submits that by virtue of the present writ petition the petitioner who has already retired from the service only interested to receive the benefit of 1st and 2nd ACP which was given on the lesser scale on the ground that the petitioner is not a graduate. Counsel for the petitioner submits that by way of supplementary affidavit, he has annexed the judgment of Hon'ble Supreme Court of India in case of *Amresh Kumar Singh Vs. The State of Bihar in SLP(C) Nos. 8219-8226 of 2019* in which vide order dated 25.04.2023, this Hon'ble Court has pleased to decide that Accounts Clerks of Irrigation Works Department which are governed by Bihar Accounts Service Rule, 2000 are entitled for benefit of the ACP. He submits that paragraph 19 of the said judgement supports the claim of the petitioner.

4. Counsel for the State also submits that petitioner may be directed to file representation before the authority concerned.

5. In the light of the submissions made, it transpires to



this Court that in case of *Amresh Kumar Singh Vs. The State of Bihar(Supra)* with analogous cases decided by Hon'ble Supreme Court in which Paragraph 19 of the said Judgment states that:

In view of the aforesaid legal position coupled with the fact that the qualification of graduation prescribed is for the promotion to the post of Accounts Officer rather than for the grant of in situ promotion on the non-functional post or for extending the benefit of ACP which is purely and simply in the nature of grant of monetary benefit without actually effectuating any promotion to any higher post, we are of the opinion that the judgment and order of the Division Bench of the High Court impugned in the appeals cannot be sustained. It is accordingly hereby set aside and that the judgment of the writ court dated 28.11.2017 is restored. The appellants are extended the benefit of ACP, as directed by the writ court.

6. In the light of the observation made by Hon'ble Supreme Court of India, this Court hereby directs the petitioner to file representation before the respondent No. 7 who shall pass reasoned and speaking order in the light of the order passed by the Hon'ble Supreme Court in the aforesaid judgment within 90 days from the date of production of the order.

7. Accordingly, the present writ petition stands disposed off.

(Dr. Anshuman, J)

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