

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5048 of 2020

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Rita Srivastava Widow/wife of Narendra Kumar, Ward No. -15, Baradari
Katra, P.O.-Bhagwan Bazar, P.S. and District-Chapra at Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through its Joint Commissioner, Account Administration,
Directorate of Provident Fund, Bihar, Patna. (Finance Department),
Government of Bihar, Patna.
2. The Director General Provident Fund, Pant Bhavan, Bailey Road, Patna.
3. The Deputy Director General Provident Fund, Pant Bhavan, Bailey Road,
Patna.
4. The District Provident Fund Officer Saran at Chapra.
5. The Accountant General Bihar, Veerchand Patel Path, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lalan Kumar Singh, Adv.
For the Respondent/s : Mr. Sarvesh Kumar, GP-24

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 18-07-2024 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ application has been filed for the
following relief(s):-

*“(i) That an appropriate writ or direction be
issued commanding the respondents to
consider and shifting the date of 1st assured
career progression scheme with effect from
9.8.1999 in place of 28.8.2009 with all
consequential benefits.*

*(ii) That an appropriate writ or direction be
also issued commanding the respondents to
consider and grant the 2nd assured career*

progression scheme after completion of 24 years satisfactory service and also grant the Multiple Assured Career Progression scheme with effect from 1.1.2009 after completion of 30 years of satisfactory service with all the consequential benefits.

(iii) That an appropriate writ or direction be also issued commanding the respondents to grant the monetary benefit of the said promotion.”

3. Learned counsel for the petitioner submits that counter-affidavit has come, in which it has been stated that due to non-passing of the Departmental Accounts Examination, the claim of the petitioner is not tenable in the light of the Rule 157 of the Bihar Board Miscellaneous Rule, 1958 and Clause 4(5) of the ACP Rules, 2003.

4. It transpires to this Court that in this regard, the Full Bench of this Hon'ble Court has decided the matter recently on **28.06.2024** in the case of ***Kamlanand Thakur Vs. The State of Bihar & Ors.*** passed in ***C.W.J.C. No. 18727 of 2017.***

5. After hearing the parties, it transpires to this Court that the representation of the petitioner was pending and her writ petition is also pending since long before this Court. The findings of the Hon'ble Full Bench have been laid down in

paragraph 48 of the judgment, which is as follows:-

“48. (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 this background, the present writ application stands disposed of directing the petitioner to file representation before the District Provident Fund Officer, Saran at Chapra (respondent no. 4) afresh, who shall pass reasoned and speaking order and if found entitlement of the petitioner, shall pay the entire dues in accordance with law in the light of the Full Bench decision mentioned above.

(Dr. Anshuman, J)

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