

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11933 of 2012

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Tribhuwan Prasad S/O Late Deep Narayan Lal Resident Of Mohall 322, A/P-
Colony, Police Station- Rampur, District- Gaya

... .. Petitioner/s

Versus

1. The State Of Bihar through its Principal Secretary, Public Health Engineer Department, Government Of Bihar, Patna
2. The Deputy Secretary, Public Health Engineer Department, Government Of Bihar, Patna
3. The Chief Engineer Mechanical, Public Health Engineer Department, Government Of Bihar, Patna
4. The Superintendent Engineer Mechanical, Public Health Engineer Department, Circle Office, Patna
5. The Executive Engineer Mechanical, Public Health Engineer Department, Division Office Sasaram, Distict- Rohtas

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Virendra Prasad, Advocate
For the Respondent/s	:	Mr. G.P. Ojha, GA 7
		Mr. Abhishek Singh, AC to GA 7

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL JUDGMENT

Date : 11-01-2024

Heard Mr. Virendra Prasad, learned counsel for the petitioner and Mr. G.P. Ojha, learned GA 7 assisted by Mr. Abhishek Singh, learned AC to GA 7 appearing on behalf of the State.

2. The present writ petition has been filed for quashing the resolution vide memo no. 36 dated 23.02.2012 issued by the respondent no. 2 whereby and whereunder the respondent no . 2 has cancelled the 2nd ACP of the petitioner w.e.f. 01.01.2002.

3. The petitioner was initially appointed as Draftman



Grade II and accordingly he joined the said post on 01.03.1969 and he was regularly working on the said post till 30.12.1977. Thereafter, the petitioner was appointed as Junior Engineer (Mechanical) vide notification no. 461 dated 31.02.1977 issued by the respondent no. 3 and accordingly the petitioner joined on the said post on 01.01.1978. The petitioner superannuated from the post of Junior Engineer (Mechanical), Public Health Engineering Department (Mechanical) Division Office, Sasasram w.e.f. 30.11.2002. After his retirement, the Chief Engineer cum Special Secretary, Public Health Engineering Department, Government of Bihar had issued a resolution dated 13.04.2009 granting the 1st and 2nd ACP to the petitioner w.e.f 09.08.1999 and 01.01.2002 respectively.

4. Learned counsel for the petitioner submits that after the issuance of the resolution dated 13.04.2009, the respondent no. 5 has fixed the salary of the petitioner on the basis of circular/guideline issued by the Finance Department, Government of Bihar, Patna. Thereafter, the respondent no. 5 has written a letter to the respondent no. 3 stating therein that pursuant to the notification dated 13.04.2009 the salary as well as pension of the petitioner is required to be fixed and he has sent the copy of the said letter to the Accountant General for re-



fixation of pension of the petitioner but the Accountant General, Bihar has refused to re-fixed the pension of the petitioner on the ground that the petitioner had already granted promotion from the post of Draftman Grade II to Junior Engineer w.e.f 01.01.1978.

5. Learned counsel appearing on behalf of the State has filed a detailed counter affidavit annexing the service book of the petitioner which suggests that the petitioner has granted promotion to the post of Junior Engineer (Mechanical) from the post of Draftman Grade II in the year 1977 itself and the same is entered into the service book of the petitioner. He further submits that the petitioner has not come with the clean hands before this Hon'ble Court and in fact, the petitioner has earlier approached this Hon'ble Court in CWJC No. 18216 of 2010 challenging the order contained in memo no. 1376 dated 04.11.2009 issued by the Accountant General by which the Accountant General had communicated to the Executive Engineer that the petitioner was not entitled for 2nd ACP as he had already been granted promotion on 01.01.1978 from the post of Draftman Grade II to Junior Engineer. He further submits that from perusal of this writ petition, it appears that the petitioner has deliberately and knowingly suppressed the



relevant facts as he has not stated in the instant writ petition in connection with CWJC No. 18216 of 2010 and according to the ACP rule and the decision of the Screening Committee dated 28.09.2011 that the petitioner was entitled for the benefit of 2nd ACP only as he got promotion vide notification no. 461 dated 31.02.1977 from the post of Draftman Grade II to Junior Engineer.

6. In the facts and circumstances of the case, it appears that the petitioner has been granted two promotion in his service period, first in the year 1977 and has been granted 1st ACP w.e.f 09.08.1999 in the pay scale of Rs. 6500-10,500/- and accordingly the petitioner has been paid all the retiral dues and the pension of the petitioner has already been revised accordingly.

7. In view of the aforesaid, there is no merit in the writ petition and the same stands dismissed.

(Rajesh Kumar Verma, J)

Vanisha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	21.02.2024
Transmission Date	N/A

