

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6997 of 2018

Sanjay Kant Thakur Son of late Sundar Kant Thakur Resident of Village-
Chanpura, Post Office- Basaitha, Police Station- Benipatti, District
Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Water Resource Department, Govt. of Bihar, Patna.
3. The Chief Engineer, Water Flood Control and Water Drainage, Water
Resource Department, Birpur, Supa
4. The Superintending Engineer, Kosi Barage Circle, Water Resource
Department, Birpur, Supaul.
5. The Executive Engineer, Eastern Embankment Division-2, Water Resource
Department, Birpur, Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Singh, Adv.
For the Respondent/s	:	Mr. Vinay Kriti Singh- Sr. Adv. GA2
	:	Mr. Rajan Prakash, AC to GA2

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

5 23-07-2024 Heard learned counsel for the petitioner and learned
counsel for the State.

2. The present writ petition has been filed for
quashing order contained in memo No.2351 dated 24.08.2017
issued by respondent no.3, so far it relates to the petitioner,
whereby the benefit of second ACP granted to the petitioner
w.e.f. 02.12.2014 under MACP scheme has been cancelled and
direction has been given to recover the amount of excess
payment, in violation of principal of natural justice without
giving any opportunity of hearing. The further prayer has been



made to grant the benefit of first ACP w.e.f. 02.12.2006 on completion of twelve years of service under ACP scheme, 2003 and second ACP w.e.f. 02.12.2014 on completion of twenty years of service under MACP scheme and the consequential monetary benefits.

3. Learned counsel for the petitioner, in support of aforesaid prayer, has submitted that the issue now stands settled as per decision of the Division Bench in the case of ***State of Bihar & Ors. Vs. Sri Krishna Singh & Anr.*** reported in **2022 (2) PLJR 773**.

4. Considering the various decisions passed by this Court earlier, reliance has been placed on decision in this case of ***State of Bihar & Ors. Vs. Smt. Jivachi Devi*** reported in **2020 (2) BLJ 471**, which was subsequently, challenged by the State of Bihar in SLP No. 782 of 2022 in case of ***State of Bihar and Ors. Vs. Jivachi Devi*** which was dismissed by Hon'ble Supreme Court vide order dated 14.02.2022. The Division Bench has categorically, found that the petitioner therein are entitled to grant of benefits under ACP schemes, rejecting the objection raised by the State regarding non-passing of accounts or departmental examination. Since, in the instant case, respondent No. 3 has directed for cancelling the ACP granted to the petitioner earlier on the grounds of non-passing of departmental examination, the



cancellation of ACP is unsustainable.

5. The learned State counsel, on the other hand, submits that decisions being relied upon by petitioner, have been rendered by this Court after the decision of respondent No. 3 to cancel the benefits granted to the petitioner under ACPS. The decision/s of the Division Bench, relied upon by the petitioner, therefore, would not apply in the instant case.

6. The objection raised by the State Counsel has been noted only to be rejected. The Division Bench in the case of Sri Krishna Singh (supra) has taken into account the law laid down by successive Division Benches right from the decision in the case of *State of Bihar Vs. Anjani Kumar reported in 2013 (2) PLJR 643* and various other cases. Relying on these decisions, Division Bench has held that refusing benefits of financial progression on the ground of non-passing of accounts or departmental examination is unjustified.

7. The decisions referred to are of the year 2013, much prior to passing of the impugned order in the instant case. The Court, therefore, does not find any substance in the objection raised by the learned State counsel. The Court would also have taken into consideration the provisions contained in Clause 4.C(1) of the Bihar State Litigation Policy 2011, which reads as follows:

“4.C(1). A good number of cases are from



the category of similar cases. Each Government Department will aim to consider and settle the claim of the representationist/ applicant employee/ citizen, if the claim is found covered by any decision of the Court. Many service matters of this nature, can be disposed of at the level of the Department itself without compelling the litigant to come to the Court. In this manner, the Government Departments would be acting as efficient litigants.”

8. In view of the consideration above, this Court does not find any justification for cancellation of the financial progression granted under the ACP to the petitioner by the impugned order dated 24.08.2017. The same is hereby quashed. As a result, the consequential order dated 27.11.2017 is also quashed.

9. The petitioner is entitled and must be paid the due and admissible benefits along with a calculation chart showing how the amount has been arrived at, within a period of eight weeks from the date of receipt/production of the copy of this order.

(Dr. Anshuman, J.)

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