

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10969 of 2024

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Lakshpati Prasad Patel S/o Shri Bhimsen Patel R/o Flat no. 301, Ankur Anand Apartment, Mahesh Nagar, Road no. 4, Patliputra, P.S.- Patliputra, Dist.- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Govt. of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary, Education Department, Government of Bihar, Patna.
4. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
5. The Director (Administration)-cum-Additional Secretary, Education Department, Government of Bihar, Patna.
6. The Director, Higher Education, Education Department, Government of Bihar, Patna.
7. The Director, Kashi Prasad Jayaswal Research Institute, Patna.
8. The State Council of Education Research and Training, Patna.
9. The Accountant General Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shashi Priya, Advocate
For the Respondent/s : Mr. Standing Counsel 9

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 25-07-2024 The petitioner was was an erstwhile employee of State Institution of Educational Trainee, by resolution dated 19.12.2007, the said institution was dissolved by the Government of Bihar. It was decided in the said dissolution resolution that the employees of the State Institution of Educational Trainee would be absorbed to the various departments of the State Government, under same scale of pay, in which they were working.



2. It is the grievance of the petitioner that he was absorbed in Kashi Prasad Jayaswal Research Institute, Patna w.e.f. 04.12.2008, but in lower scale of pay, the petitioner submitted series of representations that the resolution dated 19.12.2007 was violated in his case and he ought to be posted in a post equivalent to the salary, which he used to get in the erstwhile institution of Educational Trainee. Subsequently, on 17.04.2019, he was promoted to the Assistant Director of Kashi Prasad Jayaswal Research Institute, Patna and has been getting the pay scale, which he used to get in the erstwhile Educational Training institute.

3. By filing the instant writ petition, the petitioner has prayed for issuance of the writ in the nature of mandamus directing the respondents to fix his A.C.P. w.e.f. 15.10.2008 over the scale of pay of Assistant Director.

4. Learned Advocate on behalf of the State, on the other hand, submits that it is not the case that petitioner was not granted first and second ACP. He was actually granted first and second ACP on the pay scale of Karmshala Anudeshak (Workshop Instructor). The petitioner was appointed as Sahkari Nedeshak w.e.f. 17.04.2019, therefore, he is not entitled to get first and second ACP over his salary, which he is getting as



Sahkari Nideshak w.e.f. 17.04.2019.

5. On perusal of the writ petition, I find that the petitioner has prayed for grant of ACP from October, 2008, on which date, he was not even absorbed. It is the administrative exigency to decide in which post an employee is to be absorbed. If, the scheme says that the employees of a dissolved institution would be absorbed in the similar scale of pay but due to one reason or other, he could not be absorbed in similar scale of pay, but he absorbed in lower scale of pay, which he accepted the ACP will be drawn on the salary, which he was getting in lower scale of pay.

6. ACP and MACP cannot be granted on some notional basis, on the plea that had he been employed in a particular post on the same pay scale, in which he was employed previously, than he would have got ACP at the higher rate.

7. The prayer of the petitioner is found to be misconceived and accordingly, the instant writ petition is dismissed.

(Bibek Chaudhuri, J)

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