

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10028 of 2024

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Panchanan Prasad Singh Son of Late Girijeshwar Prasad Singh Resident of
Village- Soha, Police Station- Sonbarsa, District- Saharsa.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Chief Engineer, Water Creation, Water Resources Department, Darbhanga.
4. The Superintending Engineer, Western Koshi Canal Circle, Darbhanga.
5. The Executive Engineer, Western Koshi Canal Division, Darbhanga.
6. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Satish Chandra Jha 3, Advocate
For the State	:	Mr. Md. Khurshid Alam, AAG-12
For the Acct. General	:	Mr. Vivekanand Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 02-07-2024

Heard learned counsel for the petitioner, learned
counsel for the State and learned counsel for the Accountant
General.

2. The petitioner has prayed for the following
relief/s :-

“(i) To direct the concerned respondents,
to consider and grant the benefit of 1st and 2nd
Assured Career Progression (in short A.C.P.), to the



petitioner w.e.f. 09.08.1999 with all consequential monetary benefit, because petitioner was made permanent on the post of Compilation Clerk, however, his said post was merged as Store-keeper in terms of Water Resources Department's Letter No. 1821 dated 30.06.1989 and he retired as such and during the entire service period he was not allowed any regular promotion, as such in terms of A.C.P. Rule 2003, he is legally entitled to get benefit of A.C.P.

(ii) To direct the respondents to revise his salary and pensionary benefits, after grant of A.C.P. and make payment of difference amount in lieu thereof and also revise his Pension, with effect from his date of retirement.

(iii) That the Hon'ble Court may be pleased to grant other relief or reliefs to the petitioner as this Hon'ble Court may think it proper in the present facts and circumstances of this case.”

3. Learned counsel for the petitioner submits that initially the petitioner joined as Chaukidar on 06.02.1973 in the Work Charge establishment and subsequently his service was temporarily regularized on the post of Compilation Clerk vide S.E. Letter No. 1188 dated 11.08.1977. In terms of Letter No. 1821 dated 30.06.1989 issued by the Water Resources Department, Govt. of Bihar, Patna, the post held by the petitioner, i.e. Compilation Clerk was merged as Store-Keeper till his retirement. During the entire service period, the



petitioner was not granted any regular promotion and retired as Store-Keeper w.e.f. 03.06.2002.

4. Learned counsel for the petitioner further submits that the petitioner has not passed Departmental examination, because he was holding the post of Store-Keeper and not Accounts Clerk or Correspondence Clerk, however, he has passed in Hindi Noting and Drafting examination which was necessary for all Govt. employees to get annual increment. The State Government notified the Bihar State Employees Service Condition (Assured Career Progression) Rule 2003 vide Finance Department's Notification No. 4685/F(2) dated 25.06.2003 and said Rule was made effective w.e.f. 09.08.1999. In the terms of the said ACP Rule, 2003, a Govt. employee is legally entitled to get 1st A.C.P. after completion of 12 years of Service and 2nd A.C.P. after completion of 24 years of regular service in the pay scale of next higher promotional post.

5. Learned counsel for the petitioner further submits that the matter relating to grant of Assured Career Progression was pending before the Full Bench in CWJC No. 18727 of 2017 along with other analogous cases (Kamlanand Thakur vs. the State of Bihar and Ors.) has now been decided on 28.06.2024. The relevant paragraph 48 whereof is reproduced as under :-



“48. Thus, the questions stand answered as follows :-

(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. Learned counsel for the State submits that the



petitioner's representation is still pending and no decision has been taken by the authority concerned. He further submits that the writ petition may be disposed of directing the respondent No. 3, namely, the Chief Engineer, Water Creation, Water Resources Department, Darbhanga.

7. After hearing the parties, it transpires to this Court that if the petitioner's argument is correct and his case is covered in the light of the Full Bench decision mentioned above, then Section 4.C(1) of the Bihar Litigation Policy, 2011 has to apply and the respondents are bound to pass order in favour of the petitioner.

8. As such, the writ petition is disposed off with a direction to respondent No.3, namely, the Chief Engineer, Water Creation, Water Resources Department, Darbhanga to pass a reasoned and speaking order on the representation filed by the petitioner before him within 90 days from the date of receipt/production of a copy of this order.

9. It is made clear that this Court has not expressed any opinion on the merit of the case. It is for the respondent no.3 to apply his mind whether the Full Bench decision is applicable in the case of the petitioner or not ?. If it is found by him/her that the petitioner's claim is covered by the order of the



Full Bench aforesaid, then in that case, he should be granted relief.

10. With the aforesaid observation and direction the writ petition stands disposed of.

(Dr. Anshuman, J)

Ashwini/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	04/07/2024
Transmission Date	NA

