

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.541 of 2021
In
Civil Writ Jurisdiction Case No.948 of 2021

-
1. The State of Bihar through the Principal Secretary, Rural Works Department, Government of Bihar, Patna.
 2. The Chief Engineer - 3, Rural Works Department, Government of Bihar, Patna.
 3. The Superintendent Engineer, Rural Works Department, Works Circle, Samstipur.
 4. The Executive Engineer, Rural Works Department, Works Division, Patori, Samastipur.

... .. Appellants.

Versus

Vijay Kumar Mishra, Son of Late Indra Narayan Mishra, Resident of Ward No. 08, Dharampur, District- Samstipur.

... .. Respondent.

Appearance :

For the Appellants : Mr. Manish Kumar [A.C. To A.A.G.6 (Ex)] [In-charge AAG-5]
For the Respondent : Mr.

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 23-04-2024

The appellants have assailed the order of the learned Single Judge dated 24.03.2021 passed in C.W.J.C. No.948 of 2021.

2. The matter was heard at length on 02.04.2024.

3. Core issue involved in the present lis is whether deceased Indra Narayan Mishra was entitled to have the benefit of A.C.P. or not?



4. Learned Single Judge has allowed C.W.J.C. No.948 of 2021 vide order dated 24.03.2021 to the extent that deceased Indra Narayan Mishra is entitled to A.C.P. benefit. The same was disputed by the learned counsel for the State.

5. Learned counsel for the State-appellants vehemently contended that for the purpose of extending the A.C.P. benefit, employee has to pass departmental examination of the next higher promotional cadre.

6. Passing of certain departmental examination and eligibility to be promoted is not required for the purpose of extending the A.C.P. benefit as held by the Hon'ble Supreme Court in the case of **Amresh Kumar Singh & Ors. vs. The State of Bihar & Ors.**, reported in **2023(2) PLJR (SC) 423**. Therefore, there is no infirmity in the order of the learned Single Judge. Accordingly, the present L.P.A. No.541 of 2021 stands dismissed. The concerned appellant is hereby directed to extend the A.C.P. benefit to the deceased Indra Narayan Mishra and differences of pay and pension shall be calculated and the same shall be disbursed in favour of the legal heirs of the deceased Indra Narayan Mishra within a period of three months from the date of receipt of this Order.

7. The pending Interlocutory Application(s), if any,



stands disposed of.

(P. B. Bajanthri, J)

(Alok Kumar Pandey, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	25.04.2024.
Transmission Date	NA

