

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11910 of 2024

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1. Bharat Prasad Chaudhary, S/o Late Ganaur Chaudhary, Resident of Balua Tola, P.O.- Motihari, P.S.- Motihari, District- East Champaran.
 2. Devendra Prasad Srivastava, S/o Late Gaya Prasad Srivastava, Resident of Village and Post- Bokane Kala, P.S.- Patahi, District- East Champaran.
 3. Vinod Kumar Sarraf, S/o Late Mahadeo Sah, Resident of Village and Post- Sonapatti, Sitamarhi, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Finance Secretary, Finance Department, Government of Bihar, Patna.
3. The Secretary (Expenditure), Finance Department, Government of Bihar, Patna.
4. The Principal Secretary, Public Health and Engineering Department, Government of Bihar, Patna.
5. The Secretary, Public Health and Engineering Department, Government of Bihar, Patna.
6. The Joint Secretary, Public Health and Engineering Department, Government of Bihar, Patna.
7. The Engineer-In-Chief- cum- Additional Secretary - cum- Special Secretary Public Health and Engineering Department, Patna, Bihar.
8. The Chief Engineer, Public Health and Engineering Deptt, Muzaffarpur Zone, Muzaffarpur.
9. The Superintending Engineer, Public Health and Engineering Department, Government of Bihar, Circle, Motihari, East Champaran.
10. The Executive Engineer, Public Health Division, Motihari, District- East Champaran, Bihar.
11. The Executive Engineer, Public Health Division, Dhaka, District- East Champaran, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Harendra Kumar Tiwary
For the Respondent/s	:	Mr. Jitendra Kumar Roy

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 12-08-2024 Petitioners are retired Accounts Clerk in the District
of East Champaran, Motihari. They were admittedly non-



graduates. As per the policy of granting financial benefit *in situ* in the form of ACP and MACP, the petitioners were granted their 1st ACP at the rate of Rs. 5,000-8,000 and 2nd ACP @ 5,500-9,000. Subsequently, the issue as to whether an Accounts Clerk would be debarred from getting 1st and 2nd ACP at higher rate came before this Court for consideration in CWJC No. 18433 of 2016 [(Shashi Shekhar Ambastha & Ors Vs. State of Bihar) along with other similar matters]. It was held in above-mentioned case that as a result, all consequential actions taken by the controlling departments against these petitioners were quashed and set aside. The State in its Finance Department together with the controlling departments of the petitioners were directed to accord the benefit of Assured Career Progression to these petitioners as extended to the petitioners in C.W.J.C. No. 18015/2011 and C.W.J.C. No. 16346/2011 from the due date in accordance with law within a period of three months from the date of receipt/ production of a copy of this order together with all consequential benefits. The said writ petitions were disposed of on 28th November 2017 and the writ petitions were allowed together cost quantified at Rs. 50,000/- payable by the State in the Patna High Court Legal Aid Committee, Patna in acting contrary to the litigation policy to engage its employees in



frivolous protracted litigations.

2. The said order was challenged at the instance of the State Government in LPA No. 408 of 2018 along with other LPAs. The order of the writ court was set-aside and the appeals were allowed. Subsequently, against the said order, the petitioners preferred Special Leave Petition before the Hon'ble Supreme Court which was finally registered as Civil Appeal Nos. 3139-3146, 3147 and 3148- 3149 of 2023, the Hon'ble Supreme Court allowed the said appeal holding, *inter alia*, that the appellants are entitled to financial upgradation under the ACP Scheme on completion of requisite regular service ignoring the higher qualification prescribed for the next higher post as grant of such benefit is not actually a promotion but only a financial upgradation and if the higher qualification is insisted, it would frustrate the purpose of the entire scheme. The State Government filed a review petition before the Hon'ble Supreme Court which was rejected, therefore, it is now settled that even without having higher educational qualification, an employee can get financial benefit *in situ* after completion of satisfactory work of the requisite period when the ACP is allowed.

3. In the instant case, the petitioners are allowed. ACP @ 6,500-10,000 and 2nd ACP @ Rs. 10,000-15,000. The



petitioners submitted a representation before the Principle Secretary, Public Health and Engineering Department, Government of Bihar, Patna, but their representation remained unanswered.

4. For the reasons stated above, respondent no. 04 is directed to dispose of the representations filed by the petitioners within 30 days from the date of communication of this order positively.

5. The petitioners are at liberty to communicate this order, obtaining a server copy of the same.

6. The instant writ petition is thus disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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