

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11728 of 2024

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Sita Ram Yadav Son of Late Banshi Yadav Resident of -Ward no.32,
Ramadiha, Near Town Schoo, Aurangabad, P.O. and P.S.-Aurangabd (Town),
District-Aurangabad (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Director Secondary Education, Government of Bihar, Patna.
4. The Regional Deputy Director, Education Department, Magadh Division, Gaya.
5. The District Magistrate, Aurangabad.
6. The District Education Officer, Aurangabad.
7. The District Program Officer (Establishment), Education Department, Aurangabad.
8. The District Treasury Officer Aurangabad (Bihar).
9. The Accountant General, Bihar, Veerchand Patel Path, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ranjit Kumar, Advocate
For the State	:	Mr. Mahendra Pd. Verma, AC to SC-20
For the A.G.	:	Mr. Chaitanya Swaroop, Advocate

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 06-08-2024 Heard learned counsel for the petitioner and learned

counsel for the State as well as learned counsel for the

Accountant General.

2. The petitioner has filed the present writ petition

with the following relief/s :-

"i. To quash the office order
contained in Memo No. 583 dated 27.06.2024



passed and issued by the respondent no.4, whereby and whereunder the claim of second A.C.P. of the petitioner was disallowed.

ii. To grant the benefit of 2nd A.C.P. to the petitioner w.e.f. 01.02.2009 and further give the differences of arrears of salary for enhance payment w.e.f. from 31.07.2014 till date to him.

iii. To fix the pension of the petitioner on the basis of the benefit of the Second A.C.P. with effect from 31.07.2014 i.e. the date of his retirement and further give all the difference of arrear of pension amount to him."

3. Learned counsel for the petitioner submits that the petitioner is entitled for the 2nd A.C.P and in this regard, he had filed representation which was rejected vide letter no. 583 dated 27.06.2024, as contained in Annexure P-1 to the writ petition. Learned counsel further submits that for grant of 2nd A.C.P., the Full Bench of this Hon'ble Court has decided the matter vide judgement dated 28.06.2024 passed in CWJC No. 18727 of 2017 (*Kamlanand Thakur V. The State of Bihar and Ors.* with other analogous cases).

4. Learned counsel for the State submits that the case of the petitioner may be decided in the light of the Full Bench



decision aforementioned.

5. Upon hearing the parties and perusal of records of this case, this Court feels it necessary to quote the relevant paragraph 48 of the Full Bench judgement rendered in CWJC No. 18727/2017, 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. In light of the decision of Hon'ble the Full Bench, the order contained in letter no. 583 dated 27.06.2024 passed by respondent No.4, namely, the Regional Deputy Director, Education Department, Magadh Division, Gaya, is hereby set aside.

7. It is directed to the petitioner to file a fresh representation before respondent No. 4, namely, the Regional Deputy Director, Education Department, Magadh Division, Gaya within 30 days from today along with a copy of this order and the concerned authority is directed to pass a reasoned and speaking order on the representation of the petitioner afresh within 90 days thereafter. It is made clear that if the petitioner is



found entitled to 2nd A.C.P. then the said benefit be granted to him within 90 days thereafter.

8. With the aforesaid observation and direction, the present writ petition stands disposed off.

(Dr. Anshuman, J)

Ashwini/-

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