

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15367 of 2024

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Ashok Kumar Singh S/o Late Jay Kishore Singh, Resident of Village-
Chhitraur, P.O.-Chhitraur, P.S.-Matihani, District-Begusarai, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary, Finance Department, Government of Bihar, Patna.
3. The Secretary (Resource) Finance Department, Government of Bihar, Patna.
4. The Secretary (Expenditure) Finance Department, Government of Bihar, Patna.
5. The Additional Chief Secretary, Water Resources Department, Government of Bihar.
6. The Chief Engineer, Flood Control and Water Drainage, Water Resources Department, Katihar.
7. The Executive Engineer, Flood Control Division, Bausi, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar, Advocate

Mr.Ajay Kumar, Advocate

For the Respondent/s : Addl. Advocate General (12)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 28-10-2024 Heard Mr.Ashok Kumar along with Mr. Ajay Kumar,

learned counsels appearing on behalf of the petitioner and the

Additional Advocate General 12 for the State.

2. Mr. Ashok Kumar, learned counsel appearing on
behalf of the petitioner submits that petitioner became entitled
for 1st ACP in pay scale of Rs.6500-10500/- with effect from
09.08.1999, 2nd ACP in pay scale of Rs.10000-15200 with effect
from 01.03.2005 and 3rd MACP in PB III Grade Pay Rs.7600/-
with effect from 01.03.2011. Learned counsel further submits
that the scheme of ACP is self-contain, which relates to
financial progression as a result of stagnation. The petitioner



having served for a long duration of time and has fulfilled all the conditions stipulated in the ACP scheme and in the light of law laid down by the Apex Court in the case of ***Amresh Kumar Sinha & Ors. v. The State of Bihar & Ors.***, reported in **2023 SCC Online SC 496** that technical eligibility, which is required for regular promotion will not come in a way in respect of such employee who has stagnated. Later on, the Full Bench of this Court in the case of **Kamlanand Thakur Vs. State of Bihar & Ors. (C.W.J.C. No.18727 of 2017) & other analogous cases** has clarified the same. Learned counsel in these backgrounds, seeks to file a detailed representation before the respondent no.6 (the Chief Engineer, Flood Control and Water Drainage Water Resources Department, Katihar).

3. Considering the aforesaid submissions made on behalf of the petitioner, as well as, the desire of the petitioner to file a detailed representation before respondent no.6 (the Chief Engineer, Flood Control and Water Drainage Water Resources Department, Katihar) in light of the law laid down by the Apex Court in the case of ***Amresh Kumar Sinha (Supra)*** and the Full Bench of this Court in the case of ***Kamlanand Thakur (Supra)***, respondent no.6 is directed to consider the claim of the petitioner, as claimed for in the present writ petition, well within



a period of six weeks from the date of its filing, on the basis of records in respect of the petitioner, who retired from the post of Senior Accounts Clerk on 31.10.2014. It is made clear that the petitioner has claimed for revision of pension and arrear of salary and, as such, the authorities concerned must not delay in passing the order and must not take any identical plea, particularly in the cases of retiral benefits, as the same will not come into effect, as has been clarified by the Apex Court.

4. I further clarify that in cases of payment of retiral benefit, technical plea will not come in way of non-payment in light of law laid down by the Apex Court in the case of **Union of India & Ors. Vs. Tarsem Singh, reported in 2008(8) SCC 648**, wherein the Apex Court has relied in Paragraph No.6, the case of **Shiv Dass Vs. Union of India**, which is reproduced hereinafter *inter alia* as follows : -

“6. In *Shiv Dass Vs. Union of India*, this Court held :

“8. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the



High Court in deciding whether or not to exercise such jurisdiction.

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10. In the case of pension the cause of action actually continues from month to month. That, however, can not be a ground to overlook delay in filing the petition. ... If petition is filed beyond a reasonable period say three years normally the Court would reject the same or restrict the relief which could be granted to a reasonable period of about three years.”

5. All the monetary benefits, to which the petitioner is entitled, should be given to him in further period of two weeks.
6. In case, the petitioner is not entitled, he must be given personal hearing and, thereafter, a reasoned order in accordance with law, is required to be passed.
7. The writ petition is, accordingly disposed of.

(Purnendu Singh, J)

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