

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20422 of 2019

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Braj Kishore Singh, Son of Late Gokul Singh, Resident of Village- Rudal
Pakri, P.O.- Parsurampur, P.S.- Pipra, District- East Champaran (Motihari).
... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources Department, Government of Bihar, Patna.
2. The Secretary, Water Resources Department, Government of Bihar, Patna.
3. The Chief Engineer, Flood Control and Water Discharge, Water Resources Department, Muzaffarpur.
4. The Superintending Engineer, Tirhut Canal Division, East Champaran.
5. The Executive Engineer, Head Works Division, Balmikinagar, East Champaran.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binod Kumar Sinha, Advocate
For the Respondent/s : Mr.Vikash Kumar (SC11)

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 17-09-2024 Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. Learned counsel for the petitioner submits that the present writ petition has been filed for quashing of the order dated 30.08.2019 contained in Memo No. 2113 issued by respondent No. 3, namely, the Chief Engineer, Flood Control and Water Discharge, Water Resources Department, Muzaffarpur.

3. Learned counsel for the petitioner submits that the said order is a reasoned order which is not sustainable in the light of the Full Bench decision rendered by this Hon'ble Court on 28.06.2024 in the case of *Kamlanand Thakur Vs. the State*



of Bihar and Ors. along with analogous cases (CWJC No. 18727 of 2017 with analogous cases), operative part is paragraph 48 which states as follows :-

"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."

4. Learned counsel for the respondent submits that



this matter is pending since 2019 and the representation of the petitioner has already been rejected vide order dated 30.08.2019 and the petitioner is relying on the decision rendered in the case of **Kamlanand Thakur (supra)**.

5. As such, the order impugned dated 30.08.2019, contained in Memo No. 2113, passed by respondent No.3, namely, the Chief Engineer, Flood Control and Water Discharge, Water Resources Department, Muzaffarpur is hereby set aside and the respondent No.3 is directed to decide the case of the petitioner afresh in the light of the Full Bench decision cited above within 90 days from the date of production/receipt of a copy of this order.

6. The petitioner shall be paid all the consequential benefits if he is found entitled in the light of the Full Bench decision rendered in the case of **Kamlanand Thakur (supra)** within 90 days.

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

(Dr. Anshuman, J)

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