

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.978 of 2019

- 1.1. Uttam Kumar Son of Late Upendra Nath Sah, Resident of Diwan Mohalla Nauzar Ghat, Patna City, Patna - 08.
- 1.2. Utpal Kumar, Son of Late Upendra Nath Sah, Resident of Diwan Mohalla Nauzar Ghat, Patna City, Patna - 08.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Secretary-Cum-Commissioner, Road Construction department, Government of Bihar, Patna.
3. The Chief Engineer, Ganga Bridge Project Wing, Road Construction Department, Vishwesraiya Bhawan, Bailey Road, Patna.
4. The Executive Engineer, Ganga Bridge Project Division, Gulzarbagh, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anil Kumar Mukund
For the Respondent/s : Mr. Chitranjan Sinha

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

6 09-07-2024 Learned counsel for the petitioners, learned counsel for the State and learned counsel for Accountant General present.

2. The present writ petition has been filed for quashing the order dated 09.03.2009 and 16.05.2012 passed by Chief Engineer, Ganga Pul Pariyojna, Road Construction Department, Bihar, Patna whereby the ACPs granted to the petitioner vide letters dated 31.03.2008 and 13.06.2008 were arbitrarily withdrawn further for quashing of the order dated 03.10.2018 whereby the authorities have yet again chosen to deny the petitioner his earned benefit of two ACPs on account of misleading and fictitious grounds.

3. It has been jointly prayed that the issue directly and



substantially involved in the present case has been covered by the Judgment of this Hon'ble Court dated 28.06.2024 passed by Hon'ble Full Bench in the case of ***Kamlanand Thakur Vs. State of Bihar and Ors.*** in C.W.J.C. No. 18727 of 2017 with analogues cases.

4. It transpires to this Court that the operative part of the said judgment has been mentioned in Paragraph 48 of the Judgment 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 though provides that the prescribed even 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 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 my Departmental Examination or acquiring any educational qualification for promotion under the Service/Recruitment/Promotion Rule



5. In the light of the Full Bench Decision, this writ petition is disposed off directing the respondent authority to consider the claim of the petitioners a fresh in the light of the decision made by the Hon'ble Full Bench in the case of ***Kamlanand Thakur Vs. State of Bihar and Ors. (Supra)***, therefore, the order dated 09.03.2009 and 16.05.2012 passed by Chief Engineer, Ganga Pul Pariyojna, road Construction Department, Bihar, Patna whereby the ACPs granted to the petitioner vide letters dated 31.03.2008 and 13.06.2008 is hereby quashed.

6. The petitioners are directed to file his representation before Respondent No. 3 i.e. the Chief Engineer, Ganga Bridge Project Wing, Road Construction Department, Vishwesraiya Bhawan, Bailey Road, Patna within 30 days from the date of production of this order and the Respondent No. 3 is directed to pass a reasoned and speaking order in the light of the observations made by the Hon'ble Full Bench within 90 days thereafter.

7. As such, this writ petition stands disposed off.

(Dr. Anshuman, J)

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