

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1649 of 2019

In
Civil Writ Jurisdiction Case No.4729 of 2016

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Guneshwar Prasad Sinha @ Guneshwar Prasad Singh S/o Nand Kishore Singh, Resident of village - Gulni Kushaha, P.S. Shambhuganj, District - Banka at Present Working as Anurkhak/Tracer and Posted at Design Division No. 1, Department of Water Resources Bhagalpur under the Government of Bihar, Patna and superannuated 30.09.2018.

... .. Appellant/s

Versus

1. The State of Bihar Bihar.
2. The Principal Secretary, Department of Water Resources, Sinchai Bhawan, 3rd Secretariat, Bihar, Patna.
3. The Chief Engineer, Department of Water Resources, Bhagalpur.
4. The Superintending Engineer, Irrigation Circle, Bhagalpur.
5. The S.E., Design Circle, Department of Water Resources, Bhagalpur.
6. The Executive Engineer, Design Division No. - 1, Department of Water Resources, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Appellant/s : None
For the Respondent/s : Mr.Deepak Sahay Jamuar, AC to AAG4

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SHASHI BHUSHAN
PRASAD SINGH

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

8 04-10-2024 None appears for the appellant.

2. Appellant has assailed the order of the learned Single Judge dated 14.11.2019 passed in CWJC 4729 of 2016. His grievance is relating to grant of the first ACP and the same has been turned down and writ petition is dismissed.

3. Service particulars of the appellant are that he was



appointed as *Anusewak* (4th grade) on 13.07.1979. Thereafter, his services were regularised on 24.05.1983 by virtue of Chief Engineer, Department of Water Resources, Bhagalpur letter dated 04.06.1994. He has earned promotion to the post of *Anurekhak* (3rd grade) on 12.08.1986.

4. State Government has evolved scheme called ACP benefit in the notification dated 25.06.2003 and it has been given effect from 09.08.1999.

5. Learned counsel for the respondents contended that appellant is not entitled to first ACP in the light of the fact that he has earned promotion to the post of *Anurekhak* (3rd grade) on 12.08.1986. In other words, once an employee earned a promotion, in that event he is not entitled to first ACP. Such a material information is not forthcoming from the scheme of ACP dated 25.06.2023.

6. For the purpose of earning first ACP employee should have rendered 12 years of service in a cadre. In the present case, appellant has completed 12 years of service on 11.08.1998 much prior to introduction of ACP scheme with effect from 09.08.1999. Therefore, appellant is entitled to first ACP in the light of the fact that he was stagnated in the post of *Anurekhak* (3rd grade) from 12.08.1986 till 09.08.1999 the date



on which ACP scheme has been given effect. Therefore, the learned Single Judge committed error in not appreciating the aforementioned facts and circumstances. Accordingly, order dated 14.11.2019 passed in CWJC No. 4729 of 2016 stands set aside.

7. The concerned respondent is hereby directed to extend first ACP benefit to the appellant from 09.08.1999. In the light of the facts narrated (supra) within a period of six months from the date of receipt of this order and extend monetary benefits after due calculation from the date he was entitled to first ACP. Consequently, re-fixation of pay is required to be undertaken and further difference of pay and pension shall be calculated and released in favour of appellant. If the above exercise is not undertaken within the time limit stipulated supra, in that event appellant is entitled to litigation cost and it is quantified at Rs. 25,000/-.

(P. B. Bajanthri, J)

(Shashi Bhushan Prasad Singh, J)

Ankit Kumar/-

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