

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.10826 of 2025**

Rajendra Singh

... .. Petitioner/s

Versus

The State of Bihar & Ors.

... .. Respondent/s

**Appearance :**

|                      |   |                                 |
|----------------------|---|---------------------------------|
| For the Petitioner/s | : | Mr. Pankaj Kumar, Adv.          |
| For the Respondent/s | : | Mr. Kumar Manish, SC -05        |
|                      |   | Mr. Prashant Kumar, AC to SC-05 |

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

2      21-07-2025                      Heard Mr. Pankaj Kumar, learned Advocate for the petitioner and Mr. Kumar Manish, learned Advocate for the State.

2. The petitioner at the inception fairly contended that earlier for identical relief, the petitioner had approached this Court by filing C.W.J.C. No. 1215 of 2022 seeking a direction upon the respondent to extend the benefit of 1<sup>st</sup> and 2<sup>nd</sup> A.C.P., as the same has not been allowed despite rendering of more than 30 years of service. It is further contended that in the earlier round of litigation, the petitioner sought liberty to approach the respondent authorities for redressal of his aforesaid grievance, however, the writ petition stands dismissed as not pressed.

3. Placing reliance upon the decision rendered by this Court in the case of *Arun Kumar vs. The State of Bihar & Ors.*,



**C.W.J.C. No. 14797 of 2019** it is submitted that true it is that unconditional withdrawal of the writ petition would normally bar the second petition, however, in the case in hand despite the representation filed by the petitioner in the light of the afore-noted order, the same has been kept pending and no action has been taken till date, hence, compelling the petitioner to approach before this Court afresh.

4. The learned Advocate for the State opposed the maintainability of the writ petition on the ground of the earlier writ petition having been dismissed as not pressed. However, he fairly submitted that the representation preferred by the petitioner is required to be disposed off by the competent authority in any view of the matter.

5. This Court has considered the respective submissions set forth by learned Advocate for the parties and took note of the settled legal position that undisputedly the unconditional withdrawal of the writ petition would bar the second petition on the same cause of action not in terms with the order XXIII Rule 1 of C.P.C., but only on account of public policy of not permitting the litigant to come to the Court time and again for the same cause of action, as held by the learned Full Bench of this Court in ***Mahant Ram Kinkar Das vs. The***



***State of Bihar & Ors., 2017 (1) PLJR 909***, which was duly explained in C.W.J.C. No. 14797 of 2019, where the Court held in paragraph no. 28 and 30 as follows:-

*“28. There is another aspect of the matter as well. Whether withdrawal of the petition can be taken as a waiver of a right which in the present case is a right of livelihood. No person can be made to work without remuneration and an employer, howsoever strong he may be and whatever may be the impelling motive, cannot be permitted to appropriate the remuneration earned by an employee even for a short period.*

*30. The facts of the present case are absolutely different and require a consideration notwithstanding the vindication of the principle that as a matter of public policy, a second writ petition on same set of facts ought not to be entertained.”*

6. In view of the aforesaid legal position and taking note of the fact that no decision has been taken on the claim of the petitioner with regard to the A.C.P. as also the consequential benefits, till date, which would amount to depriving the petitioner from his rightful claim, generating from the benefits acquired on account of satisfactory discharge of service, the present writ petition stands disposed off with a direction to the respondent no. 3 to consider the claim of the petitioner and bring to its logical conclusion preferably within a period of 12 weeks' from the date of receipt/production of a copy of this



order.

7. Suffice it to observe that in case the claim of the petitioner finds favour, necessary consequential order shall also follow.

8. The writ petition stands disposed off.

**(Harish Kumar, J)**

supratim/-

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