

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19387 of 2011

Naresh Sharma Son of Late Gorelal Singh Resident Of Surkhikan, Bhatta
Near Kalisthan, Tilka Manjhi, P.S.-Barari, District-Bhagalpur.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The Principal Secretary, Department Of Health, Govt. Of Bihar, Patna.
3. The Principal Secretary, Health Medical Education And Family Welfare
Department, Govt. Of Bihar, Pa
4. The Superintendent, Jawaharlal Nehru Medical University Hospital,
Bhagalpur.
5. The District Account Officer, Bhagalpur.
6. The Chief Medical Officer, Bhagalpur.

... .. Respondent/s

Appearance :

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

For the Respondent/s : Ms. Aradhana Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

8 04-08-2025 Heard learned counsel for the petitioner and learned
counsel for the State.

2. Learned counsel for the petitioner submits that the
present writ petition has been filed for grant of the benefit of the
second ACP with effect from 2009, when the petitioner
completed 24 years of service, and for revision of his salary
accordingly after granting the said benefit.

3. Learned counsel for the State submits that a counter
affidavit has been filed in this case, wherein a clear stand has
been taken that the services of the petitioner were regularized
vide Memo No. 90 dated 09.01.2003, and the benefit of the first



time bound promotion was granted to him with effect from 19.01.1995. It is further submitted that as per the government policy, employees who have not passed the Hindi Noting and Drafting Examination are not entitled to receive the annual salary increment, nor are they eligible for the benefits of the first time bound promotion, selection grade, or ACP promotion. A copy of the relevant office Memo No. 3040 dated 26.03.2008 was duly served upon the petitioner. Despite this, the petitioner has failed to comply with the said government guidelines and has admittedly not passed the Hindi Noting and Drafting Examination, which is a mandatory requirement under the applicable rules. Hence, the petitioner is not entitled to any relief.

4. In response thereof, learned counsel for the petitioner submits that the matter relating to grant of promotion, ACP and other benefit which has ultimately been decided by the Hon'ble Supreme Court in the case of ***Amresh Kumar Singh Vs. State of Bihar*** reported in 2013 (2) PLJR 423 (SC) relevant paragraph 19 whereof is as under :-

“19. In view of the aforesaid legal position coupled with the fact that the qualification of graduation prescribed is for the promotion to the post of Accounts Officer rather than for the grant of in situ promotion on the non-functional post or for extending the benefit of



ACP which is purely and simply in the nature of grant of monetary benefit without actually effectuating any promotion to any higher post, we are of the opinion that the judgment and order of the Division Bench of the High Court impugned in the appeals cannot be sustained. It is accordingly hereby set aside and that the judgment of the writ court dated 28.11.2017 is restored. The appellants are extended the benefit of ACP, as directed by the writ court.”

5. In the light of the said decision, the writ petition is allowed.

6. The petitioner is directed to file a fresh representation before respondent No. 2, namely, the Principal Secretary, Department of Health, Government of Bihar, Patna, along with a copy of this order, within 30 days from today. Upon receipt of the representation, the Principal Secretary, Department of Health, Government of Bihar, Patna, is directed to take a decision on the said representation within 90 days from the date of its filing after considering the judgement rendered in the case of *Amresh Kumar Singh (supra)*, with a reasoned and speaking order.

(Dr. Anshuman, J)

Ashwini/-

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