

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1767 of 2017

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Nirmal Kumar S/o Late Anandi Singh, resident of Village Majhuwa, P.S. Farwish Ganj, District Araria, present posted as Irrigation Revenue Inspector, Manoharpur, Sarainja, Chousa, Matkipur, District- Buxar.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Old Secretariat, Patna.
2. The Secretary, Water Resource Department, Bihar, Patna.
3. The Chief Engineer, Water Resource Department, Dehri.
4. The Superintending Engineer, Flood Control Circle, Buxar.
5. The Executive Engineer, Son Canal Division, Buxar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : None
For the Respondent/s : Mr. Vikash Kumar, SC-11

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

- 4 05-01-2026 1. No one appears on behalf of the petitioner. Learned counsel for the respondents is present.
2. The petitioner has filed the instant application for the following reliefs :-

“(i) For a direction to the Respondents to release annual increment of the petitioner withheld from 2000 to 2010.

(ii) For a further direction to the Respondents to grant the benefit of ACP.

(iii) For a declaration that the office order contained in memo no. 1645 dated 11.4.2007 cannot operate as a bar for grant of annual increment and benefit of pay upgradation under ACP or in the alternative for quashing of the office order contained in memo no. 1645 dated 11.4.2007.

(iv) For any other relief or



consequential reliefs to which the petitioner may be found entitled to in the facts and circumstances of this case.”

3. Learned counsel appearing for the respondents referring to various paragraphs of the counter affidavit submits that several departmental proceedings have been initiated against the petitioner and an F.I.R. was also registered against him wherein he was taken into custody. The orders of punishment have also not been challenged by the petitioner before the Appellate Authority. It is for this reason that the petitioner has not been given increment up to year 2009 but is being given the benefits since 1.7.2010. Relevant paragraphs of the counter affidavit are reproduced herein below for ready reference :-

“7. That it is stated further that the petitioner has not come to his Hon'ble Court with clean hands and has concealed many facts. After transfer to the Revenue Division, Buxar where he joined on 31.12.2001, he started to remain absent from duty in unauthorized manner due to which collection of irrigation revenue was badly affected. A departmental proceeding was initiated against the petitioner for the said charges vide record no. 1/03-04 and he was awarded punishment of stoppage on two increments with cumulative effect vide order contained in memo no. 12 dated 11.10.2004 for the charges proved against him. He



was also warned to not repeat such conduct in future.

8. That the petitioner did not take any lesson from the aforesaid punishment and again remained absent from duty in unauthorized manner. He was also found negligent in his duties. Therefore again a departmental proceeding was initiated against him vide record no. 01/04-05 and on conclusion of the said proceeding he was awarded punishment of stoppage on three increments with cumulative effect vide order contained in memo no. 885 dated 28.12.2004.

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10. That the petitioner submitted his joining in Sone Canal Division, Buxar on 02.06.2005 pursuant to order of the Chief Engineer as contained in letter no. 2275 dated 01.06.2005. On conclusion of the aforesaid departmental proceeding, the petitioner was awarded with punishment of censure and stoppage on three increments with cumulative effect vide order issued by the Chief Engineer as contained in memo no. 1645 dated 11.04.2007 (Annexure-1 of the writ application). It was also ordered that no promotion will be granted to the petitioner in future.

11. That the petitioner was arrested by the police on 01.02.2008 and sent to jail in connection with Dhansoi P.S Case No. 35/05. The Chief Engineer put him under suspension with effect from the said date vide order contained in memo no. 1343 dated 12.04.2008. The petitioner



was released on bail on 22.05.2008 and thereafter his suspension was revoked.

12. That it is stated that the petitioner did not assail the aforesaid orders of punishment before the appellate authority and as such those orders attained finality. As a consequence of the aforesaid orders of punishment, the petitioner has not been given increment till the year 2009 but since 01.07.2010 he has regularly been given the said benefit. His salary has also been revised giving benefit of 6th pay revision.

13. That so far grant of benefit of A.C.P. is concerned, it would be evident from the aforesaid facts that there are several breakages in service of the petitioner due to his unauthorized absence from duty and he has not completed the regular service of ten years as required under the M.A.C.P. Rules, 2010. His service record is also not clean. As such he is not entitled to get the said benefit at present.”

4. In spite of a copy of the counter affidavit having been served on learned counsel for the petitioner as far back as on 4.5.2017, there is no affidavit in response thereto.

5. In view of the above, the Court finds no merit in the instant application and the same is dismissed.

(Partha Sarthy, J)

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