(2011) 04 PAT CK 0030

In the Patna High Court

Case No : CWJC No. 9504 of 2010

Begeshwari Sharma and Others	APPELLANT
Vs	
The State of Bihar and Others	RESPONDENT

Date of Decision : 07-04-2011

Acts Referred:

Citation : (2011) 4 PLJR 112

Hon'ble Judges : J.N. Singh, J

Bench : Single Bench

Judgement

J.N. Singh, J.—Petitioners have filed this writ application for quashing of an office order dated 10.5.2006 issued by the Chief Engineer, as contained in Annexure-1, and have also prayed for a direction to the respondents to grant them benefits of ACP from the due dates.

2. Annexure-1 shows that it is only lays down provisions under which the claim of ACP of the concerned employees has to be considered and determined. A list is enclosed with Annexure-1, in which the name of petitioner nos. 3 and 4 are only mentioned which shows that they have not been granted the benefits of the ACP Scheme showing that they have not passed the Accounts examination.

3. Learned counsel for the petitioner submits that, in fact, petitioner nos. 2 to 5 have passed Accounts examination and it is an error on the part of the respondents to record in the chart that they have not passed the examination. In respect of petitioner no.1 he submits that he did make attempt to pass examination and had also passed few parts, but has not completed the same and he had attained 50 years of age. He submits that, as per law, after attaining the 50 years of age, he stands exempted from passing any Accounts examination.

4. Counter affidavit has been filed in this case. Learned counsel for the respondents submits that grant of benefits of ACP is not automatic and the concerned employees have to apply for the same satisfying the authorities that they are eligible for such grant of benefits. He submits that the petitioners have

not filed any application in this regard.

5. Reply to the counter affidavit has been filed by the petitioners. Alongwith the reply a letter of the Executive Engineer, Tirhut Division, Muzaffarpur dated 17.10.2006 to the Superintending Engineer has been annexed as Annexure-3 to show that, in fact, the petitioners had applied for grant of such benefits which was forwarded by the Executive Engineer to the Superintending Engineer through this letter. Learned counsel for the petitioner also refers to an order of this Court passed in CWJC No. 202 of 2010, a copy where of is annexed as Annexure-2, to contend that this Court has held that passing of Accounts examination is not a sine qua non for grant of benefits under the ACP Scheme since the Scheme provides for grant of monetary progression to the employees who have not been granted regular promotion.

6. After hearing the parties, this Court finds that the respondents have not taken any final decision in respect of the petitioners for grant or refusal of the benefits of the ACP Scheme to them in specific terms. The stand of the respondents is that the petitioners have not filed any application. The same is disputed and some document has been placed on record through supplementary affidavit to show that some application of the petitioners was forwarded by the Executive Engineer, to the Superintending Engineer.

7. However, to expedite the matter, this Court grants liberty to the petitioners to file a formal application for grant of such benefits under the ACP Scheme to the competent authorities within four weeks from today. This submission of application by the petitioners shall satisfy the technical objection of the respondents that they have not filed any application. Upon receipt of the application, the respondents shall consider the entitlement of the petitioners in accordance with law and pass appropriate orders on the same preferably within a period of three months from the date of filing of the application. Alongwith the application petitioners may enclose any orders of this Court from which they may claim to derive benefits and any other circular or orders of the Government which they may rely for the purpose of consideration of their claim. In case, the petitioners are held entitled for the benefits, the consequential orders for release of monetary benefits shall also be issued within the same period.

