
(2026) 01 JH CK 1755

In the Jharkhand High Court

Case No : Writ Petition (S) No. 962 Of 2015

Sapan Kumar Bera, S/o Sri Vrindavan Bera

APPELLANT

Vs

State Of Jharkhand through the Secretary

RESPONDENT

Date of Decision : 08-01-2026

Acts Referred:

Citation : (2026) 01 JH CK 1755

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Dhananjay Kumar Pathak, Navneet Toppo

Final Decision : Allowed

Judgement

Deepak Roshan, J

1. The instant writ application has been preferred by the petitioners for the following reliefs:

“(i) For commanding upon the respondents to provide the benefits of ACP and others consequential increments while counting their length of service from the date of their entry in the respondent department considering the fact that similarly situated several other employees posted at J.A.P.T.C., Padma, Hazaribagh have been allowed and granted the benefit of ACP while calculating their length of service from the date of their entry in the service.

(ii) For showing the respondents cause as to why and under what circumstances the similarly situated other employees have been granted the benefits of ACP whereas the same benefit has not been provided to the petitioners inspite of several requests and reminders as well as recommendation by the competent authority.

And/Or

The Petitioners further pray for passing of such other order/orders as Your

Lordships may deem fit and proper in the interest of justice.”

2. The brief facts of the case as per the pleadings are that the petitioners were given temporary appointment at Traffic Training School (TTS) Jamshedpur as Cook, Jalwahak, Helper etc. and similarly a group of persons were appointed at Police Training Centre Padma, Hazaribagh during the same period. A group of persons among 238 employees moved before the Patna High for regularization of their service in CWJC No. 7810 of 1988 and CWJC No. 5485 of 1989. Thereafter all the 238 temporary employees including the petitioners were regularized vide District Order No. 398 of 1996 with effect from 29.08.1996.

3. Further, as per the ACP scheme, similarly situated persons posted at J.A.P.T.C Padma, Hazaribagh were granted the benefits of ACP vide order dated 09.01.2004 taking into account the length of their service from the date of their entry. However, the said benefits were later on withdrawn by the respondents. Thereafter, the persons employed at J.A.P.T.C, Padma Hazaribagh challenged the order of withdrawal of ACP benefits in W.P.(S) No. 2584 of 2005 and vide order dated 18.01.2011 the writ application was allowed and order dated 12.01.2005 by which the ACP benefits were withdrawn was quashed. Subsequently, the Superintendent of Police vide District Order No. 308/2011 ordered to make the earlier order issued vide District Order No. 30/04, 31/04, 284/04 effective. Consequently, the concern employees posted at J.A.P.TC., Padma Hazaribagh have been given the benefits of ACP from the date of their entry in service.

4. The petitioners also approached before the competent authority vide letter dated 31.01.2011 for fixation of their scale while granting the benefits of ACP. Thereafter, various correspondences were made in the department but the petitioners have not yet been provided the benefits of ACP although the similarly situated persons/employees posted at another training center have been provided the benefits of ACP. Being aggrieved of the action of the respondents, the petitioners have filed the instant writ applications.

5. The case of the petitioners is that when the ACP granted to similarly situated persons from the date of their initial appointment was withdrawn, they moved before this Court. The said case was allowed and the impugned order dated 12.01.2005 was quashed. Pursuant thereto; similarly situated persons were given the benefit of ACP from the date of initial appointment but the same benefit has been denied to these petitioners which nothing but discrimination.

6. Learned counsel for the petitioners has also drawn attention of this Court towards the judgment passed in CWJC No. 5485 of 1989 wherein the Patna High Court in the case of similarly situated persons had categorically held that the petitioners were appointed as contingent employee after following procedure of appointment and directed the respondent- State to consider the case of the petitioners for regularization in terms of Rule dated 05.03.1948 taking into account their respective date of entry in service, if necessary, by making the posts as permanent post against which they were performing their duties.

Relying upon the aforesaid facts that similarly situated persons are getting the same benefit of ACP from the date of initial appointment and the Patna High Court has already directed in the case of similarly situated persons to take a final decision with regard to regularizing the employees by making regular appointment from the date of initial entry, learned counsel for the petitioners submits that there is no reason why these petitioners will not get the same benefit i.e. benefit of ACP from the date of initial entry, what is being given to similarly situated employee of J.A.P.TC., Padma Hazaribagh.

7. Learned counsel for the respondents opposes the prayer of the petitioners and submits that the benefit of ACP will be granted to the employees considering their length of service from the date of regular appointment and ad hoc or temporary or contractual period will not be taken into consideration. He contends that this stand is on the basis of Resolution contained in Memo No. 2981 dated 01.09.2009 issued by the State of Jharkhand.

However, learned State Counsel could not dispute the fact that the similarly situated employees in the State of Jharkhand who earlier preferred a writ application being W.P.(S) No. 2584 of 2005 are availing the same benefit of ACP from the date of initial appointment. There is no specific denial by the respondents to the aforesaid facts, save and except, that the said case is not applicable.

8. Having heard learned counsel for the parties and after going through the documents available on record it appears that for regularization; several similarly situated employees preferred a writ application before the Patna High Court praying for a direction upon the respondents to give them regular appointment against the posts they are performing their duties. The said case was allowed and a mandamus was issued to the respondents to take a decision by treating all similarly situated persons for regular appointment in terms of Rule dated 05.03.1948 taking into account their respective date of entry in service. Pursuant thereto; all the similarly situated employees were regularized.

9. Subsequently, they were also granted ACP benefits including these petitioners from the date of initial appointment. However, all of a sudden, the said order granting the ACP benefits from the date of initial appointment, were recalled. The respondents withdrew the earlier order and came with an order that they will be entitled for ACP benefits from the date of regularization and not from the date of entry in service.

Thereafter, similarly situated employees preferred writ application before this Court being W.P.(S) No. 2584 of 2005 which was allowed and the impugned order of withdrawal of ACP benefits granted earlier was quashed and set aside on the ground of procedural irregularity.

However, after the order passed by this Court, instead of pursuing the issue of giving ACP benefit to those petitioners by following natural justice; the respondents took a decision to give the benefit of ACP to those employees from

the date of their initial appointment. Now the stand of the respondents that the aforesaid order passed in W.P(S) No. 2584 of 2005 will not be applicable in this case is not sustainable and not acceptable to this Court.

10. At this stage, it is also pertinent to mention here that there is no denial by the State Counsel in any averment in the counter affidavit with respect to the statement made in paragraph no. 10 to the writ application that the persons employed at J.A.P.T.C Padma, Hazaribagh and whose benefits of ACP were subsequently withdrawn by the respondents, after quashing of the order by this Court, are getting the same benefit.

11. Further, there is also specific averment in paragraph no. 11 to the writ application that subsequent to the order dated 18.01.2011 the Superintendent of Police cancelled its previous order and ordered to make the earlier order effective whereby employees posted at Padma, Hazaribagh were allowed to get benefit of ACP while taking into account the services rendered by them as temporary employee prior to their regularization.

12. Thus, there is no reason why these petitioners will be treated differently with their co-employees who are employed at Padma, Hazaribagh. Even otherwise, as stated hereinabove, after the order passed by the Patna High Court in the case of regularization all the petitioners were regularized from the date of entry in service.

13. Having regard to the aforesaid discussion, the instant writ application stands allowed.

Accordingly, the Respondents are directed to issue necessary orders w.r.t. payment of the ACP benefits from the date of their initial entry and not from the date of regularization and accordingly verify the records of the case of the respective petitioners and pay the same after calculation within a period of 12 weeks from the date of receipt /production of copy of this order.

14. Pending I.As., if any, also stand disposed of.