

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3915 of 2012

- 1.1. Raj Kumar Thakur Son of Late Baidhynath Thakur, R/v- Dumari, P.S.- Musahri, District- Muzaffarpur.
- 1.2. Ranjit Thakur Son of Late Baidhynath Thakur, R/v - Dumari, P.S.- Musahri, District- Muzaffarpur.
- 1.3. Rani Devi D/o Late Baidhynath Thakur, W/o Gajanan Thakur R/v- Narsanda, P.S. - Kanti, District- Muzaffarpur.

... ... Petitioner/s
Versus

1. The State of Bihar through the Principal Secretary, Department of Health, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna
3. Director In Chief, Health Services, Bihar, Patna
4. Chief Malaria Officer, Bihar, Patna Null Null
5. Civil Surgeon Cum Chief Medical Officer, Muzaffarpur
6. Incharge Medical Officer, Primary Health Centre, Mashari, Muzaffarpur
7. Accountant General, Bihar, Patna

... ... Respondent/s

Appearance :

For the Petitioner/s : Mr. Shiv Kumar, Advocate
For the State : AC to AAG-4
For the Accountant General : Mr. Vivekanand Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
CAV JUDGMENT

Date : 08-10-2025

1. Heard learned counsel for the heirs of the original petitioner (herein after referred to as the 'petitioners') and learned counsel for the respondents.
2. The original petitioner filed the instant writ application for the following reliefs :-

"1. i) For directing the respondent authorities to give the replacement scale of 4000-6000 to the petitioner w.e.f. 1.1.1996 as per the



Resolution no. 660 dated 8.2.99 issued by the Finance Department, Govt. of Bihar.

ii) For directing the respondent authorities to give the benefit of first and second Assured Career Promotion to the petitioner in the higher scale w.e.f. 9.8.99 as per the Notification no. 4685 dated 25.6.2003 issued by the Finance Department, Govt. of Bihar.

ii) For directing the respondent authorities to pay the cost of Rs. 10000/- to the petitioner in light of the order dated 19.10.2011 passed in M.J.C. No. 1633/2010 by this Hon'ble Court.”

3. The original petitioner having died on 22.6.2021, he was substituted by his legal heirs, the petitioners herein, on 14.7.2025.

4. It is submitted by learned counsel for the petitioners that due to developments which have taken place during pendency of the instant application, he is not pressing prayer nos.1(i) and 1(iii) of the writ application. The instant application is confined to prayer no.1(ii) which is for a direction to the respondent authorities to give the benefit of first and second Assured Career Progression ('ACP' in short) scheme with effect from 9.8.1999 as per Notification no.4685 dated 25.6.2003 of the Finance Department, Government of Bihar.

5. The case of the petitioners in brief is that the



original petitioner was appointed as a Superior Field Worker on 13.10.1960 and retired from service on 31.1.2000 while working as Basic Health Worker in the Primary Health Centre at Masahari in Muzaffarpur. He was granted the first time bound promotion with effect from 1.4.1981 which however was wrongly shifted to 16.5.1984. Further the second time bound promotion granted to him was cancelled and certain amounts were adjusted against his post retrial dues.

6. The above actions of the respondents led to the petitioner filing CWJC no.690 of 2005 which was allowed by order dated 7.12.2009.

7. It is further case of the petitioner that though he was given the benefit of first ACP vide order dated 30.4.2005 with effect from 9.8.1999 but the benefits thereof have still not been paid and further he has not received the grant of second ACP. All this has led to filing of the instant writ application for the reliefs as stated herein above.

8. It is submitted by learned counsel for the respondents that while making the claim for grant of benefits of ACP, the petitioner has not approached this Court with clean hands as he did not make the prayer for grant of ACP in the writ application filed by him in the year 2005. The said writ



application was confined only with respect to the grievance of the time bound promotion and recovery of the excess amount.

9. It is submitted by learned counsel appearing for the respondents that the petitioner was appointed as a Superior Field Worker in 1960 and subsequently under a policy decision of the government it was decided to adjust all the working hands under the programme in the regular service of the Health Department as Basic Health Worker. Accordingly, the petitioner's service was absorbed by order dated 16.5.1974. With respect to grant of ACP it was submitted that by order dated 30.4.2005 the petitioner was granted the benefit of first ACP with effect from 9.8.1999. As in the service period the petitioner got regular promotion in the higher scale as Basic Health Worker, the petitioner is not entitled for second ACP. In view of these facts, it was submitted that there is no merit in the instant application so far as grant of benefits of second ACP to the petitioner is concerned and the writ application be dismissed.

10. Heard learned counsel for the parties and perused the materials on record.

11. The relevant facts in brief are that the petitioner was appointed as a Superior Field Worker in the year 1960 under the Malaria Eradication Programme, a programme



sponsored by the government. Some time before 1974 the said programme was closed and as per policy decision of the Government it was decided to adjust all the working hands under the programme in the regular service of the Health Department as Basic Health Worker. Accordingly, the petitioner's service was absorbed vide order dated 16.5.1974.

12. The contention of the respondents for not granting the benefits of second ACP to petitioner is that the petitioner having got regular promotion in his service period as Basic Health Worker, he was not entitled for the same.

13. As against the aforesaid stand of the respondents, it would be relevant to quote the relevant portion of the order dated 7.12.2009 passed in CWJC no.690 of 2005 which is as follows :-

“Accordingly, it is that the absorption/adjustment of the petitioner from the post of Superior Field Worker, upon abolition of the Programme, to the post of Basic Health Worker by order dated 16.5.1974 was not a promotion.”

14. This Court having held that on abolition of the programme the absorption/adjustment of the petitioner on the post of Basic Health Worker not being a promotion, the contention raised by the respondents stands clearly answered.



15. In view of the facts stated herein above, this Court holds the petitioner to be entitled for grant of second ACP on completion of 24 years of service i.e. with effect from 9.8.1999 i.e. the date the ACP scheme came into force.

16. All consequential benefits as a result of the grant of second ACP shall be paid to the petitioner within a period of 3 months from the date of receipt/production of a copy of this order.

17. The writ application stands allowed.

(Partha Sarthy, J)

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AFR/NAFR	
CAV DATE	02.09.2025
Uploading Date	08.10.2025
Transmission Date	

