

**Gopal Ram Vs. State of Bihar and Ors**

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**SooperKanoon Citation :** [sooperkanoon.com/69275](http://sooperkanoon.com/69275)

**Court :** Jharkhand

**Decided On :** Feb-29-2016

**Appellant :** Gopal Ram

**Respondent :** State of Bihar and Ors

**Advocate for Def. :** Mr. S. Srivastava

**Judgement :**

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S) No. 2850 of 2012  
Gopal Ram son of late Bansh Ropan Sharma, resident of B-42, Harmu Housing Colony, P.O. Harmu, P.S. Argora, District-Ranchi (Jharkhand). .. Petitioner  
Versus 1. The State of Bihar through its Chief Secretary, Bailey Road, Patna, P.O., P.S. and District Patna.

2. The Secretary, Road Construction Department, Govt. of Bihar, Bailey Road, Patna, P.O., P.S. and District Patna.

3. The Deputy Secretary, Road Construction Department, Bihar, Patna, P.O., P.S. and District Patna  
4. The Engineer-in-Chief-cum-Special Secretary, Road Construction Department, Patna, Vishweshwariya Bhawan, Bailey Road, Patna, P.O., P.S. and District Patna.

5. The Chief Engineer (Mechanical), Road Construction Department, Patna, Vishweshwariya Bhawan, Bailey Road, Patna, P.O., P.S. and District Patna.

6. The Superintending Engineer, (Mechanical), Road Construction Department, Patna, Circle Darbhanga.

7. The Executive Engineer, (Mechanical) Mechanical Division, Road Construction Department, P.O. P.S. and District Darbhanga, Bihar.

8. Accountant General, Bihar, Patna, P.O. P.S. and District Patna.

9. Accountant General, Jharkhand, Ranchi, P.O. & P.S. Doranda, District- Ranchi.

.. . Respondents ----- CORAM: HONBLE MR. JUSTICE PRAMATH PATNAIK

----- For the Petitioner : Mr. H. Waris, Advocate For the State of Bihar : Mr. Pankaj Kumar, Adv. For the Respondent nos.8 & 9. : Mr. Sudarshan Srivastava, Adv. ----- th 6/Dated:29 February, 2016 Per Pramath Patnaik, J.:

1. In the accompanied writ application, the petitioner has sought for issuance of direction to the respondents to grant ACP benefits and for direction to the respondents to grant promotion benefits to the petitioner payable under ACP Scheme, and for modification of the order dated 07.09.2009 (Annexure-3 to the writ application) and for direction to the respondents to fix pay scales on promotional post with retrospective effect, compute notional salary on the date of retirement, revise pensionary benefits and pay the differential amounts as arrear amounts.

2. Sans details, the facts as disclosed in the writ application is that petitioner joined on 23.12.1963 as Junior Engineer at Dalsingh Sarai in Khagaria district and retired on 31.10.2001 after attaining the age of superannuation.

3. Learned counsel for the petitioner submits that being aggrieved by order dated 07.09.2009 (Annexure-3 to the writ application) wherein the name of the petitioner finds place at serial no.1, the petitioner got 1st and 2nd ACP with effect from 09.08.1999, which is illegal and ante dated.

4. Mr. Pankaj Kumar, learned counsel appearing for the State of Bihar raised preliminary objection to the maintainability of the writ petition. In order to buttress his submission, learned counsel appearing for State of Bihar has referred to the decision reported in 2002(1) JLJR697(State of Bihar vs. Arvind Vijay Bilung &

Anr.) wherein this Court, at paragraph 12, has been pleased to hold:

12. In such a situation and in such a background, where the State is carved out of an existing State, the cooperation between the two States becomes meaningful. If, therefore, the State of Bihar has, in its possession, any material against a Government servant who, by virtue of section 74 of the Act, is now in the service of the State of Jharkhand and if the State of Bihar thinks that such material warrants initiation of an action against such a person, it is open to the State of Bihar to forward such material to the State of Jharkhand for such action as it considered appropriate by the State of Jharkhand. Let it be very clearly understood that only role of the erstwhile State in such a situation is merely to pass on the information or the relevant material to the State of Jharkhand and leaving the rest for the State of Jharkhand to do. Similar would be the case for the State of Jharkhand if an employee is in a place in Bihar and if the State of Jharkhand has any material in its possession which may be required to be forwarded to the State of Bihar for appropriate action against such an employee.

5. Learned counsel appearing for State of Bihar has also referred to the decision reported in [2012(3) JCR224SC] State of Uttarakhand & Anr. vs. Umakant Joshi, wherein the Honble Apex Court, at paragraph 12, has been pleased to hold:

12. In view of the above, we hold that the writ petition filed by respondent No.1 in 2008 in the Uttarakhand High Court claiming retrospective promotion to Class-I post with effect from 16.11.1989 was misconceived and the High Court committed jurisdictional error by issuing direction for his promotion to the post of General Manager with effect from 16.11.1989 and for consideration of his case for promotion to the higher posts with effect from the date of promotion of his so called juniors.

6. Mr. S. Srivastava, learned counsel for respondent nos.8 and 9 referring to the decision reported in 2009 (3) JLJR114(Narayan Mochi vs. M/s Eastern Coal Fields Ltd., Kolkata & Ors.) has also submitted with vehemence that the writ petition is not maintainable. The facts which have no bearing with the lis or dispute involved in the case, do not give rise to cause of action. Entire bundle of facts pleaded need not constitute cause of action. All material facts situs in Jharkhand is not a cause

of action because it has no bearing with the lis.

7. Learned counsel appearing for the respondents further submits that the cause of action arose in the year 2009 and the writ petition is filed in the year 2012 and the delay has not been explained in the writ application, so the writ petition is not maintainable on the ground of delay and laches.

8. After hearing learned counsel for the respective parties, I am of the considered view that the writ petition is not maintainable on the ground of lack of jurisdiction. However, it is made clear that this Court has not expressed any opinion on the merits of the entitlement of the petitioner. Hence, the petitioner is advised to avail the remedy, before appropriate forum. It is also made clear that I have not expressed any opinion on the legality or sustainability of impugned order dated 07.09.2009 vide Annexure-3 to the writ application.

9. With the aforesaid direction, the writ petition stands, disposed of. (Pramath Patnaik, J.) Saket/-

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