

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.6102 of 2016**

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1. Binod Kumar Jha Son of Late Ugra Mohan Jha Resident of Village - Bangaon Purbari Tola, P.S. Bangaon, District - Saharsa, presently resident of Mohalla - C/o Brajesh Kumar (Advocate), Maa Anandmai Colony, Khojaimli, P.S. Phulwarisharif, District - Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Irrigation Department, Bihar, Patna.
2. The Additional Secretary, Minor Irrigation Department, Bihar, Patna.
3. The Engineer-In-Chief (Central), Bihar, Patna.
4. The Chief Engineer (Central), Bihar, Patna.
5. The Superintending Engineer, Arwal.
6. The Executive Engineer, Arwal.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Nachiketa Jha, Adv.

For the Respondent/s : Mr. Shiv Kumar, A.c. to G.A.3

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**CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN**

**ORAL JUDGMENT**

**Date: 23-03-2017**

Heard Mr. Nachiketa Jha, learned counsel for the petitioner and Mr. Shiv Kumar A.C. to G.A.3 for the State.

The petitioner prays for appropriate direction to the respondents to grant the benefit of Modified Assured Career Progression (hereinafter referred to as 'the 'MACP') with effect from 2.3.2009 when the petitioner completed 30 years of service having been appointed as a Junior Engineer on 3.2.1979 in the Minor Irrigation Department of the Government of Bihar. In fact, the case of the petitioner also was forwarded for such grant by the Executive



Engineer as manifest from his letter dated 5.1.2016 to the Water Resources Department as contained in Annexure-2 but since it was not being acted upon that the petitioner came before this Court through the present writ petition and when this Court taking note of the stand taken by the Under Secretary, Water Resources Department more particularly at paragraph 5 wherein it was stated that the matter of the petitioner would be put up before the Departmental Screening Committee issued directions to place the decision of the Committee, by way of an affidavit.

No affidavit is filed in compliance of the order of this Court passed on 22.12.2016 rather it is after a direction was again issued on 18.1.2017 that a supplementary affidavit has been filed by the Under Secretary, Water Resources Department informing that a disciplinary proceeding was initiated against the petitioner which has resulted in an order of punishment of stoppage of increment with non cumulative effect vide order dated 14.6.2016 present at Annexure-A to the said supplementary counter affidavit. It is thereafter stated that it is for this reason that the matter was not put up before the Screening Committee.

This Court fails to appreciate as to how a proceeding initiated in 2016 can be a reason for not putting up the case of the petitioner before the Screening Committee for consideration of his case for MACP w.e.f. 2.3.2009.



Mr. Shiv Kumar learned counsel has referred a letter of the Water Resources Department dated 20.1.2017 to submit that the parent department of the petitioner would be the Minor Irrigation Department who has to take a decision on his grant of MACP.

I have heard learned counsel for the parties and considering that an entitlement of the petitioner which accrued as back as in 2009 yet evades him for reasons entirely attributable to the respondents I would direct the respondent No.2 or the authority concerned in the Minor Irrigation Department to forthwith consider the claim of the petitioner for grant of MACP with effect from 2.3.2009 and pass appropriate orders in accordance with law within a maximum period of six weeks from the date of receipt/production of a copy of this order.

The writ petition is allowed.

**(Jyoti Saran, J)**

Bibhash/-

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