

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7817 of 2014

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Kapil Muni Rai son of Late Ram Keshwar Rai, Enforcement Sub- Inspector
Resident of Village- Krishi Nagar, A.G.Colony, P.S- Shastri Nagar, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Department of Transport,
Govt. of Bihar.

2. The State Transport Commissioner, Bihar, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Ms. Meeta Sinha, Advocate

For the Respondent/s : Mr. Raghwendra Kumar, SC 22

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date: 10-08-2018

Heard learned counsel for the petitioner and the
respondent State.

2. The writ petition has been filed claiming benefits under
the Assured Career Progression Scheme on completion of 12, 24 and
30 years of service which petitioner claims to have completed on
05.07.1986, 05.07.1998 and 05.07.2004 respectively.

3. The petitioner's claim to the benefits under the
Assured Career Progression Scheme has been denied by submitting
that against the petitioner departmental as well as criminal
proceedings are pending in relation to some allegation. From the
counter affidavit it is evident that date of charge memo in the



departmental proceedings is 06.11.2009. The other reason for non-consideration of petitioner's claim for grant under the ACP scheme is that a Vigilance Case no. 85 of 2009 was pending against the petitioner.

4. It is submitted by counsel for the petitioner that the said proceedings did not exist prior to 2009. Referring to the established law as reiterated by the Hon'ble Apex Court in the case of **Union of India & Ors. vs. K.V. Jankiraman & Ors.** reported in **(1991) 4 SCC 109** it is submitted that the departmental proceedings commence from the date of submission of charge memo. In the instant case admittedly charge memo is dated 06.11.2009. There is no averment as to whether the charge sheet in the criminal proceedings arising out of Vigilance Case no 85 of 2009 has been submitted or not. There is nothing on record to show that prior to 06.11.2009 any proceeding was pending against the petitioner so as to disentitle him to benefits under the Assured Career Progression Scheme as claimed by the petitioner.

5. In view of the aforesaid position, this Court would direct the respondent no. 2 to consider the petitioner's claim to the benefits under MACP scheme in view of the legal position as taken note hereinabove. In light of the legal position noted hereinabove, let



final decision be taken on the petitioner’s claim within a period of eight weeks from the date of receipt/production of a copy of this order.

6. The consequential benefits, if any arising out of such determination should also be paid within the aforesaid period.

7. Writ petition is disposed off.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

