

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2866 of 2020

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Vijay Kumar Jha S/o Late Kameshwar Jha Resident of Village and P.O. Hatni,
P.S.- Ghogardeha, District Madhubani.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary Rural Works Department having his office at Vishweshsaraia Bhawan, P.S.- Shastri Nagar, District- Patna.
2. The Engineer-in- Chief Rural Works Department having his office at Vishweshsaraia Bhawan, P.S.- Shastri Nagar, District- Patna.
3. The Executive Engineer Rural Works Division, Rural Work Department, Pupri, District- Sitamarhi.

... .. Respondents

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Appearance :

For the Petitioner/s : Mr.Vikas Mohan
For the Respondent/s : Ms.Archana Meenakshee (GP 6)

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 02-09-2021 This matter has been taken up for hearing online because of COVID-19 pandemic restrictions.

The petitioner is seeking a direction to the respondents to consider his case for grant of 1st, 2nd and 3rd benefit under Assured Career Progression (ACP)/Modified Assured Career Progression (MACP) on completion of 10 years, 20 years and 30 years of his service. The petitioner retired w.e.f. 31.01.2020 while holding the post of Junior Engineer.

A counter affidavit has been filed on behalf of the State of Bihar stating therein that the petitioner has been granted 1st ACP w.e.f. 09.08.1999 but the benefit of 2nd and 3rd MACP



has been kept pending because of the adverse remarks in the vigilance clearance report, as made available by the Road Construction Department, Bihar. It has further been stated that a criminal case is pending against the petitioner arising out of Bitumen Scam (C.B.I. case vide RC 38 (A)/1997 Special Case No. 26 of 2011).

Ms. Archana Meenakshi, learned counsel appearing on behalf of the State of Bihar has relied on a resolution of the State Government issued vide Memo No. 7457 dated 11.09.2002 by the Personnel and Administrative Reforms Department, which stipulates *inter alia* that a criminal case shall be deemed to be pending against a government employee from the date of submission of charge sheet. Since charge sheet has been submitted against the petitioner in the criminal case, he has not been found eligible for grant of 2nd and 3rd MACP, she contends.

In reply, learned counsel appearing on behalf of the petitioner had relied on a coordinate bench decision of this Court dated 18.06.2018 passed in C.W.J.C. No. 14609 of 2010 whereby in similar circumstance, the Court has directed the respondents to grant benefits under the MACP scheme. I find substance in the submission made on behalf of the petitioner.



Considering the facts and circumstances and the submissions made on behalf of the parties, as noted above, this application is allowed with a direction to the respondent State of Bihar to grant the petitioner benefit of 2nd and 3rd MACP w.e.f. the dates he became eligible for the said benefit.

The respondents must comply with the order within a period of two months from the date of receipt/production of a copy of this order.

It goes without saying that the petitioner shall be entitled to revision in pension accordingly.

(Chakradhari Sharan Singh, J)

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