

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.269 of 2019

In

Civil Writ Jurisdiction Case No.1766 of 2016

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Dhananjai Jha, son of Late Baldeo Jha, Resident of Village Govindpur, P.S-
Partapganj, District- Supaul, presently residing at Flat No. 203, Veena Shri
Apartment, New Punaichak, Patna-23.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Water Resources
Department, Bihar, Patna
2. The Principal Secretary, Water Resources Department, Bihar Patna
3. The Engineer-in- Chief, Madhya, Water Resources Department, Patna
4. The Chief Engineer, Mechanical, Water Resources Department, Patna
5. The joint Secretary to Government, Management, water Resources
Department, Patna
6. The Joint Secretary to Government, General Administration Department,
Govt. of Bihar, Patna
7. The Joint Secretary, Department of Finance, Government of Bihar, Patna
8. The Accountant General, Bihar Patna

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajesh Kumar, Advocate
For the Respondent/s : Mr. Anjani Kumar (Aag4)

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

Date : 19-02-2021

Heard the parties.

Aggrieved by the judgment and order dated 17.01.2019

passed in C.W.J.C. No.1766 of 2016 passed by learned Single

Judge of this Court , the appellant has preferred this appeal.

Appellant has filed writ petition for direction to
respondent authorities to grant the financial benefits under



MACP from 29.1.2009 with all consequential benefits.

Appellant was appointed as Assistant Engineer vide notification dated 25.1.1979 and, thereafter, he was granted two regular promotion as Executive Engineer and, thereafter, as Superintending Engineer. Appellant completed 30 years of service on 29.1.2009, as such, he is entitled for 3rd MACP under the resolution. Appellant retired from service on 31.1.2011.

Counter affidavit was filed on behalf of respondent State stating therein that departmental screening committee meeting was held on 17.3.2016 for grant of financial up-gradation under the modified assured career Progression Scheme in which the case of appellant was also considered but in absence of required benchmark, i.e., “very good” for last 36 months out of 60 months, his name was not approved for grant of benefit of MACP.

It is further stated that Clause 16 of Appendix 1 of resolution no.7566 dated 14.7.2010 issued by the Finance Department provides for financial up-gradation to grade pay of Rs.7600/- and above under the MACP scheme, the benchmark should be “very good” which is effective since 1.1.2009.

It has been submitted on behalf of counsel for the appellant that the resolution dated 14.7.2010 was amended



subsequently by resolution dated 5.5.2016 by which for grant of 3rd MACP in the pay band of Rs.7600/-, the requirement is same as that of grant of regular promotion and appellant fulfills all the requirements for regular promotion, as such, he is entitled for 3rd MACP in pay band of Rs.7600/-.

Having heard counsel for the appellant as well as counsel for the State, the order passed by the Writ Court is modified to the extent that case of appellant for grant of 3rd MACP be placed before the Screening Committee and if appellant is entitled for benefit under MACP on account of amended resolution dated 5.5.2016, same may be considered by the Screening Committee afresh in accordance with law within 3 months from the date of receipt/production of a copy of order passed by this Court.

This LPA is allowed to the extent as indicated above.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	16.03.2021
Transmission Date	NA

