

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5743 of 2020

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Basant Paswan son of Ramdeo Paswan Resident of- 909, A/5, Bhagwat Nagar, Bodh Bihar, Phase- 2, Near Panchwati Mandir, Naya Tola, Kumhrar, Sampatchak, P.S.- Agam Kuan, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary Government of Bihar, Old Secretariat, Patna.
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. The Principal Secretary, Water Recourses Department, Government of Bihar, Sinchai Bhawan, Patna.
4. The Engineer-in- Chief-cum- Additional Commissioner-cum- Special Secretary, Flood Control and Water Drainage, Water Resource Department, Government of Bihar, Sinchai Bhawan, Patna.
5. Engineer-in- Chief, Headquarter, Water Resource Department, Bihar, Sinchai Bhawan, Patna.
6. The Joint Secretary, Water Recourses Department, Government of Bihar, Sinchai Bhawan, Patna.
7. The Joint Secretary (Management), Water Recourses Department, Government of Bihar, Sinchai Bhawan, Patna.
8. The Deputy Secretary (Management), Water Recourses Department, Government of Bihar, Sinchai Bhawan, Patna.
9. The Under Secretary (Management), Water Recourses Department, Government of Bihar, Sinchai Bhawan, Patna.
10. The Principal Secretary, Finance Department, Government of Bihar, Old Secretariat, Patna.
11. The Secretary (Expenditure), Finance Department, Government of Bihar, Old Secretariat, Patna.
12. Accountant General (A and E), Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ratnesh Kumar Singh
For the Respondent/s	:	Mr.Anjani Kumar (Aag4)
For the Accountant General:		Mr. Arun Kumar Arun, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 07-12-2021

Heard the learned counsels for the parties.

2. In the instant petition, petitioner has prayed for



following reliefs:

“(i). quashing of Memo No. 490 dated 27.03.2017 (Annexur-8) issued under the signature of the Under Secretary, (Management), Water Recourses, Department, Government of Bihar, Patna wherein the Water Resources Department, Department, Government of Bihar, Patna has deleted the due date of promotion mentioned in column 4 of the notification no. 2525 dated 17.06.2005 in order to debar the petitioner from getting financial benefit of retrospective promotion from the due date except person mentioned at Sl. No. 30 of schedule-II of the said notification after 12 years in violation to their undertaking given to the Hon’ble High Court in CWJC no. 2803 of 1999.

ii. grant consequential financial benefit of retrospective promotion with interest @ 12% and cost as granted by the Hon’ble High Court in LPA No. 552 of 1992.

iii. grant consequential financial benefit of 1st ACP w.e.f. 17.05.2001 after completion of service of 12 years on 17.05.2001 as Junior Engineer along with interest @ 12% @ cost thereof.

iv. grant consequential financial benefit of 1st & 2nd MACP w.e.f. 01.01.2009 after completion of service of 10 & 20 years as Assistant Engineer on 01.01.2008 & 01.01.2018 along with interest @ 12% @ cost thereof.

v. grant any other relief to the petitioner which Petitioner is entitled in the facts and circumstances in this case.”

3. Petitioner was extended retrospective promotion to the post of Assistant Engineer w.e.f. 01.01.98 by memo no. 2525 dated 17.06.2005. It was sought to be cancelled on 27.03.2017.



Thus the petitioner has presented the present petition.

4. Similarly situated persons have approached this Court in CWJC No. 7245 of 2017 and it was allowed. In the light of aforesaid decision of this Court petitioner submitted representation. The same was not considered and he has presented this petition. He has also sought for consideration of 1st and 2nd MACP which is due to him in the year 2008 and 2018 respectively. Further, sought for arrears of salary. In this regard, he has submitted representation on 08.11.2019 and 20.01.2020 respectively. Undisputedly, the petitioner was promoted to the post of Assistant Engineer w.e.f. 01.01.1998 on 17.06.2005. It is sought to be withdrawn on 27.03.2017 without issuing notice to the petitioner. On this count itself, the order dated 27.03.2017 is liable to be set aside. Accordingly, the same is set aside.

5. That apart, it is to be noted that once the similarly situated person got relief in so far as the very same memo dated 27.03.2017 in all fairness, the State should have extended benefit on par with the decision rendered in CWJC No. 7245 of 2017 decided on 03.07.2018. State as a model employer should have been fair in extending relief to its employees. In other words, State shall not drag each and every employee to the



Court.

6. The petitioner is entitled to 1st MACP and 2nd MACP in the year 2008 and 2018 respectively and arrears of pay in terms of representation dated 08.11.2019 and 20.01.2020 or not?

7. The concerned respondent is hereby directed to pass speaking order and communicate its decision whether petitioner is entitled or not? If the petitioner is not entitled, in that circumstance, speaking order shall be passed and communicated to him as to why the petitioner is not entitled to MACP. If the petitioner is otherwise eligible, the same shall be extended to him within a period of four months from the date of receipt of this order.

8. With the aforesaid observations, the instant petition stands disposed of.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.12.2021
Transmission Date	

