

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2470 of 2022

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Uday Shankar Prasad Singh Son of Ram Dharikshan Singh Resident of Village and P.O. Baghakhal, District- Muzaffarpur, presently residing at New Colony, Balughat, Road no. 3, Muzaffarpur, the retired Junior Engineer, Muzaffarpur Municipal Corporation, Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Urban Development and Housing Department, Government of Bihar, Patna.
3. The Director Municipal Administration, Urban Development and Housing Department, Government of Bihar, Patna.
4. The Muzaffarpur Municipal Corporation, Muzaffarpur through the Municipal Commissioner.
5. The Municipal Commissioner, The Muzaffarpur Municipal Corporation, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vijay Kumar Singh, Advocate
For the State	:	Mr. Yogendra Pd. Sinha (AAG 7)
For the Corporation	:	Mr. Awadhesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 03-03-2022

Heard learned counsel for respective parties.

Petitioner is stated to be an employee of Municipal Corporation, Muzaffarpur. Learned counsel for the petitioner has unnecessarily impleaded the Chief Secretary, Government of Bihar, Principal Secretary and the Director, Urban Development and Housing Department, Government of Bihar. Accordingly, he is



hereby directed to delete the name of respondents no. 1 to 3 who are not necessary and proper party.

Mr. Awadhesh Kumar, learned counsel for the Municipal Corporation accepts notice for respondent nos. 4 and 5.

Learned counsel for the petitioner is hereby directed to furnish a copy of the petition to learned counsel for the Municipal Corporation if it is not already furnished.

In the instant petition, petitioner has prayed for the following relief(s):-

“(i) For Issuance of an appropriate writ in the nature of MAN-DAMUS, commanding and directing the Respondent Authorities to grant the benefit of first Assured Career Progression (hereinafter referred to A.C.P.) to the petitioner with effect from 09.08.1999 as also the benefits on the of second A.C.P. with effect from 12.04.2008 ground that the petitioner had already completed 12 years of service on 09.08.1999 and the petitioner had completed 24 years of service on 12.04.2008

(ii) For issuance of an appropriate writ in the nature of MAN-DAMUS, commanding and directing the Respondent Authorities to grant the benefit of third Modified Assured Career Progression(hereinafter referred to as MACP) to the petitioner with effect from 12.04.2014on the ground that the petitioner had completed 30 years of service.

(iii) For issuance of an appropriate writ in the nature of MAN-DAMUS , commanding and directing



the Respondent Authorities for payment of consequential benefits such as differences of arrears of salary as well as pensionary benefits to the petitioner on grant of such benefit of A.C.P./MACP for which the petitioners became entitled in accordance with law.

(iv) For issuance of an appropriate writ in the nature of MAN-DAMUS, commanding and directing the Respondent Authorities to pay the differences of salary for the period of 01.01.1989 to 31.03.1993 on account of revision of salary pursuant to 4 Pay Revision and for the period of 01.04.2007 to February, 2015 on account of grant of 6th Pay Revision.

(v) For Issuance of an appropriate writ in the nature of MAN-DAMUS, commanding and directing the Respondent Authorities to pay the differences of salary for the period of 01.01.2005 to 31.01.2009 in view of the Government Letter No.1774 dated 02.04.2005 by which a direction was issued for amalgamation of 50% D.A. with basic salary with effect from 01.01.2005 but the same was given to the petitioner with effect from 01.02.2009

(vi) For issuance of an appropriate writ in the nature of MAN-DAMUS , commanding and directing the Respondent Authorities to pay all the differential amount to the petitioner with interest.

(vii) For issuance of any other appropriate writ/writs,order /orders, direction/directions for which the writ petitioners would be found entitled under the facts and circumstances of the case.”



Short question for consideration is whether the petitioner is entitled to ACP benefit w.e.f. 12.04.2008 and further MACP w.e.f. 12.04.2014 or not? In this regard, the petitioner is stated to have submitted a number of representations on 18.10.2017, 25.01.2018, 19.11.2018, 06.02.2021 and 27.12.2021 *vide* Annexure-P/11, P-11/1, P-11/2, P-12, P-12/1 and P-13 respectively. The Corporation has not acted on the petitioner's representation either in accepting or rejecting the petitioner's claim.

Therefore, the appointing authority to the petitioner is hereby directed to examine the petitioner's service particulars read with ACP Rules/Scheme and MACP Rules/Scheme. If the petitioner is otherwise eligible for ACP/MACP in that event re-fixation of pay and pension and difference of salary and difference of pension shall be calculated and disbursed to the petitioner. The petitioner is entitled to interest @ 8% per annum prior to filing of the present petition in terms of Hon'ble Apex Court decision in the case of **Vijay L. Mehrota vs. State of Uttar Pradesh and Ors.** reported in **(2001) 9 SCC 687**. If the petitioner is not entitled in that event necessary speaking order shall be passed and communicated to the petitioner. The above exercise shall be completed within a period of four months from the date of receipt of this order.



With the aforesaid observations, the present writ petition
stands disposed off.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

