

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7299 of 2021

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Mahendra Singh Son of Late Ram Pravesh Singh, Resident of Village Parriya,
P.O. Ketaki, P.S. Deo, District - Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, P.H.E.D., Bihar, Patna.
3. The Engineer-In-Chief, P.H.E.D., Bihar, Patna.
4. The Chief Engineer, P.H.E.D., Bihar, Patna.
5. The Superintendent of Engineer, P.H.E. Circle, Sasaram.
6. The Superintendent of Engineer, P.H.E. Circle, Gaya.
7. The Executive Engineer, P.H. Division, Aurangabad.
8. The Treasury Officer, Aurangabad.
9. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Madhukar Mishra
For the Respondent/s	:	Mr. Lalit Kishore (AG)

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

Date : 09-02-2022

The matter is heard via video conferencing due to
circumstances prevailing on account of the COVID-19
pandemic.

State counsel accept notice for respondents.

Copy to the petition shall be given to the State
counsel within a week from today.

In the instant petition, petitioner has prayed for
following reliefs:-



“That this application is being filed for direction upon the respondents to pay the differences of salary differences of pension gratuity and to give ACPs with its benefit and confirm the service of the petitioner by which promotion of the petitioner is affected.”

Aforesaid relief is not supported by representation.

For the purpose of issuance of writ of mandamus, one must establish statutory right followed by demand before the competent authority. In the absence of the aforesaid ingredients in the present petition, the present petition is not maintainable in the light of Apex Court's decision in the case of ***Mani Subrat Jain V. State of Haryana & Ors.*** reported in ***A.I.R. 1977 SC 276.***

Accordingly, the instant petition stands disposed of reserving liberty to the petitioner to file a detailed representation as to how he is entitled to ACP and other benefits. If such representation is submitted within a period of eight weeks, the concerned authority is hereby directed to take note of the same and the fact that petitioner has attained age of superannuation and retired from service on 30.01.2009 and redress the grievance of the petitioner within a period of three months from the date receipt of petitioner's representation and extend all monetary benefits (differences of salary and pension) and



further enhancement of gratuity. If the petitioner is otherwise eligible, he is entitled to interest @ 8% per annum on arrears of salary in the light of Apex Court’s decision in the case of *Vijay L. Mehrotra Vs. State of U.P. & Ors.* reported in *(2001) 9 Supreme Court Cases 687 (Para 2 to 4)*. Interest on arrears is restricted to the extent that petitioner is entitled only from prior to 3 years of filing of this petition till payment is made.

If the petitioner is not entitled in that event, necessary orders shall be passed and communicated to the petitioner.

(P. B. Bajanthri, J)

kamlesh/-

AFR/NAFR	NA
CAV DATE	NA
Uploading Date	15.02.2022
Transmission Date	NA

