

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9485 of 2021

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Ramesh Prasad Singh, Son of Late Nanhu Singh, Resident of Ministerial Quarter No. 31/A Bandhan Tola Station Road, Nawada Police Station-Ara, District-Bhojpur, Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Water Resource Department, Government of Bihar, Patna.
2. The Principal Secretary, Water Resource Department, Government of Bihar, Patna.
3. The Chief Engineer, Irrigation Creation, Water Resource Department, Dehri.
4. The Executive Engineer, Sone Canal Division, Buxar.
5. The Executive Engineer, Sone Canal Division, Ara.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ravindra Kumar Singh
For the Respondent/s : Mr.

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

Date : 18-02-2022

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

2. State counsel accept notice for respondents.

3. Learned counsel for the petitioner is hereby directed to furnish copy of the petition to the State counsel, if it is not already served.

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

“1. That in the instant writ application the Petitioner prays the following relief:



I. Issuance of writ in the nature of mandamus for a direction to the Respondent authority to grant the benefits of 1st ACP w.e.f. 09.08.1999 and the benefits 2nd MACP w.e.f. 01.12.2004 and the benefits of 3rd MACP w.e.f. 01.12.2010 to the Petitioner along with Consequential benefits like revision of pension and other retiral benefits in the light of resolution contained in Memo No. 5376 dated 27.05.2013 issued by the Finance department, Government of Bihar, Patna by which the Finance department Government of Bihar, Patna made provision that the period of service rendered by the regular employee as daily wages will be countable for grant of benefits of ACP/MACP as well as the law settled by this Hon'ble Court in the case of Sanjiv Kumar Vs The Rajendra Agriculture University and others (CWJC No.233/2016) as the Petitioner became eligible for abovementioned benefits of ACP/MACP from the date of appointment since he was appointed on 01.12.1980 in the Water Resource Department, Government of Bihar on daily waged basis and the services of the Petitioner has been regularized on 29.06.2002.

II. Issuance of further direction to the Respondent authority to amend the order contained in Memo No. 3535 dated 18.11.2013 issued by the Chief Engineer, Irrigation Creation, Water Resource Department, Government of Bihar Patna to the extent the benefits of 1st ACP has been granted w.e.f. 29.06.2012 instead of 09.08.1999 without following the provision of resolution contained in Memo No. 5376 dated 27.05.2013 issued by the Finance department Government of



Bihar, Patna and without counting the period of service rendered as daily wages employee and the Petitioner further prays for a direction to grant the similar benefits to the Petitioner as granted to the similarly situated persons in the light of Bihar State Litigation Policy as well as in the light of judgment passed in the case of 2008 (4)PLJR 125 and 2011 (3) PLJR 588 & ((2006) 2 SCC 747)by the Hon'ble Courts.”

5. Aforesaid relief is not supported by demand before the competent authority. In the absence of demand before the competent authority, question of issuance of writ of mandamus is not warranted in the light of Apex Court’s decision rendered in the case of *Mani Subrat Jain V. State of Haryana & Ors.* reported in *A.I.R. 1977 SC 276*.

6. Accordingly, the present petition stands dismissed reserving liberty to the petitioner to submit a detailed representation highlighting service particulars read with Scheme/Rules of ACP. If such representation is submitted within a period of eight weeks from the date of receipt of this order, the concerned respondent is hereby directed to decide the petitioner’s grievance at the earliest.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	23.02.2022
Transmission Date	

