

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11681 of 2015

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Krishna Nand Pandey son of Late Ram Bachan Pandey, Resident of Officer's Flat Quarter No. E/6, in front of State Bank of India, Rajbanshi Nagar, New Punaichak, Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar.
2. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna
3. The Principal Secretary, Road Construction Department, Bihar, Patna
4. The Secretary, Rural Works Department, Govt. of Bihar, Patna
5. The Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, Road Construction Department, Bihar, Patna
6. The Deputy Secretary Management Cell, Road Construction Department, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Prabhu Nath Pathak, Advocate
For the State	:	Mr.Kamlesh Kishore, AC to SC-12

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 25-08-2023 The present writ petition has been filed seeking the following relief(s):-

“1. That by this application, the Petitioner is invoking the writ jurisdiction of this Hon'ble Court in the nature of writ of mandamus for directing the respondents to grant 1st ACP in the pay scale of Rs. 10000-15200/- w.e.f. 09-08-1999 on completion of 12 years of service as per Bihar State Employees Conditions of Service Conditions (Assured Career Progression Scheme) Rules, 2003 (hereinafter referred to as "ACP Rules, 2003") and the 2nd



ACP in pay scale of Rs. 15200-39100/- with grade pay of Rs. 7600/- w.e.f. 01.01.2009 on completion of 20 years of service under MACP Rules, 2010 (Modified Assured Career Progression Rules, 2010), which has been denied on the ground that the service of the Petitioner has not been confirmed in view of the pendency of Vigilance P.S. Case No. 116/2009 against which prosecution was sanctioned on 06-09-2011 vide departmental order No. 6828 dated 06-09-2011, which is wholly unsustainable in law as the prosecution sanction was given by the Department in the Vigilance P.S. Case No. 116/2009 on 06-09-2011 as is subsequent events, which cannot be deprived from the said benefit to the Petitioner. However, the observation made by this Hon'ble Court in MJC No. 4651/2011 (Kamal Kumar Vasudeo & others Vs. The State of Bihar and others) with respect to this petitioner (petitioner No.3 in the aforesaid MJC No. 4651/2011), while disposing the aforesaid MJC. No.4651/2011 as hereunder-

"So far Petitioner No.3 is concerned, it is submitted that he has not been given the benefit of ACP on the ground that his services have not been confirmed in view of the pending Vigilance Case No. 16/2009. It is contended that the Vigilance Case was registered much after the due date for grant of ACP, therefore, in



view of the settled principle that cannot be denied.”

At the outset, the learned counsel for the petitioner submits that the case of the petitioner for grant of the benefits of ACP/MACP was not considered, only on account of pendency of criminal case, however, the said criminal case bearing Special Case No.92 of 2009, pending before the Special Judge, Vigilance-1st, Patna has been quashed by a judgment dated 04.01.2019, passed by a co-ordinate Bench of this Court in Cr.Misc. No.222 of 2012, hence the respondents be directed to consider the case of the petitioner for grant of benefits of ACP/MACP.

In view of the aforesaid, the learned counsel for the petitioner seeks liberty on behalf of the petitioner to approach the Principal Secretary, Road Construction Department, Government of Bihar, Patna/Principal Secretary, Rural Works Department, Government of Bihar, Patna, i.e. the respondents no.3 and 4 for grant of the benefits of ACP/MACP. Liberty so sought is granted.

It is needless to state that in case appropriate representation is filed by the petitioner, within a period of four weeks from today, before the respondents no.3 and 4, they shall



pass a reasoned and a speaking order, in accordance with law,
within a period of six weeks, thereafter.

The present writ petition stands disposed off on the
aforesaid terms.

(Mohit Kumar Shah, J)

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