IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 5895 of 2022

==

Raj Nandan Singh S/o Late Rai Devki Nandan Singh, resident of Village - Mathuraur, P.O. - Khajraitha, P.S. - Parbatta, District - Khagaria.

... ... Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Revenue, Government of Bihar, Patna.
2. The Principal Secretary, Department of Revenue Government of Bihar, Patna.
3. The District Magistrate- cum-Collector, Khagaria.
4. The Deputy Collector (Establishment), Khagaria.
5. The Block Development Officer, Alauli, District - Khagaria.
6. The Circle Officer, Alauli, District- Khagaria.
7. The Accountant General, Bihar, Birchand Patel Marg, Patna.

... ... Respondent/s

==

Appearance :

For the Petitioner/s	:	Mr. Suraj Kumar, Advocate Mr. Pramod Mishra, Advocate
For the State	:	Mr. Rishi Raj Sinha (SC-19)

==

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date: 29-11-2023

1. The present writ petition has been filed seeking the following reliefs:-

> *"(i) A writ in the nature of certiorari or any other appropriate writ/ writs, order/orders, quashing the order dated 02.06.2018 passed by screening committee held by District Magistrate regarding finance recommendation of MACP (Modified Accrued Career Progression) whereby and whereunder the claim of the petitioner for grant of*

> *MACP has been rejected as referred in Annexure-7.*
>
> *(ii) A writ in the nature of mandamus or any other appropriate writ/ writs, order/orders, commanding and directing upon the respondent concerned to consider the claim of the petitioner to grant him Modified Assured Career Progression (here-in-after to be referred as MACP in short) benefit from the date of his entitlement and to pay him the consequential benefit as respondent authorities were not considering the same."*

2. The learned counsel for the petitioner has submitted that the case of the petitioner for grant of 3rd MACP with effect from the year 2008 has been rejected on the ground that the petitioner has not passed the Departmental Accounts Examination. The learned counsel for the petitioner has further submitted that it is a well settled law that non-passing of the departmental examination cannot be an impediment to grant of the benefits of ACP/MACP scheme.

3. *Per contra*, the learned counsel for the respondent-State has submitted that since the petitioner had not passed the Departmental Accounts Examination in time, which is mandatory for grant of the benefits of MACP, his case was rejected, vide order dated 02.06.2018.

4. I have heard the learned counsel for the parties and gone through the materials on record.

5. This Court finds that the law regarding the issue under consideration is no longer rest integra, inasmuch as a learned Division Bench of this Court in the case of the State of Bihar & Ors. vs. Ram Subhag Singh (LPA No. 4 of 2021), reported in ***2022 (2) PLJR 773,*** by a judgment dated 11.5.2022, has held that non passing of departmental examination shall not be an impediment to grant of the benefits of time bound promotions / ACP /MACP. In fact, this aspect of the matter has also been decided by a judgment, rendered by this Hon'ble Court in the case of ***State of Bihar & Ors. vs. Anjani Kumar***, reported in 2013 (2) PLJR 643, which has also been upheld by the Hon'ble Apex Court, by an order dated 10.3.2014, passed in SLP (C) No. 19182 of 2013. In this regard, reference be also had to a judgment rendered by the learned Division Bench of this Court in the case of ***State of Bihar & Ors. vs. Smt. Jivachi Devi***, reported in ***2020 (2) BLJ 471***, which has also been upheld by the Hon'ble Apex Court, in view of the dismissal of the Special Leave Petition filed by the respondent-State. It would be equally gainful to refer to a judgment rendered by the learned Division Bench of this Court in the case of ***The State of Bihar***

& Ors. vs. Shri Krishna Singh & Anr. (L.P.A. No. 372 of 2019). In a recent judgment, rendered by the Hon'ble Apex Court in the case of ***Amresh Kumar Singh & Ors. vs. the State of Bihar & Ors.***, reported in 2023 (2) PLJR (SC) 423, it has been held that extending the benefit of ACP, which is purely and simply in the nature of grant of monetary benefit without actually effectuating any promotion to any higher post, cannot be withheld for not possessing additional educational qualification, hence for the purposes of granting benefits of ACP/MACP, passing of any exam is not necessary.

6. Thus, there is no iota of doubt that the petitioner has to be granted the benefits of the Assured Career Progression scheme as also that of MACP scheme, *de hors* the fact that the petitioner has not passed the Departmental Accounts Examination, in case he has not been promoted, in order to deal with the problem of stagnation.

7. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, I deem it fit and proper to quash the minutes of meeting dated 02.06.2018 of the Screening Committee held under the Chairmanship of the District Magistrate, Khagaria, to the extent the same pertains to

the case of the petitioner and I deem it fit and proper to further direct the respondents, particularly the District Magistrate, Khagaria to consider the case of the petitioner for grant of the benefits of 3rd MACP with effect from the year 2008, without being impeded by the fact that the petitioner had not passed the Departmental Accounts Examination.

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

(Mohit Kumar Shah, J)

kanchan/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	13.12.2023
Transmission Date	NA