

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10889 of 2023

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Birendra Kumar Pandey son of Late Ram Chandra Pandey, resident of Village-Bahilwara, Police Station-Pupari, District-Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Primary Education, Education Department, Government of Bihar, Patna.
3. The District Education Officer, Sitamarhi.
4. The District Programme Officer (Establishment), Sitamarhi.
5. The Drawing and Disbursing Officer Marwari Middle School Pupri, Sitamarhi.
6. The District Treasury Officer, Sitamarhi.
7. The Accountant General, Bihar, Patna.
8. The Senior Account Officer, Office of the Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ram Sagar Singh, Advocate
For the State	:	Mr. Subhash Chandra Mishra (SC-16)
		Mr. Pramod Kumar Singh, AC to SC-16
For the A.G.	:	Mr. Raj Nandan Prasad, Advocate
		Mr. Vishesh Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 14-09-2023

Heard Mr. Ram Sagar Singh, learned counsel appearing on behalf of the petitioner; Mr. Subhash Chandra Mishra, learned SC-16 appearing on behalf of the State and Mr. Raj Nandan Prasad, learned counsel for the Accountant General, Bihar.

2. Learned counsel appearing on behalf of the petitioner submitted that petitioner is aggrieved by the incorrect



fixation of pension by the Accountant General, Bihar (Annexure-1). He further submitted that the service records relating to the petitioner is required to be verified by the District Programme Officer (Establishment), Sitamarhi, for sanctioning the correct pension payable to the petitioner on account of financial upgradation, which was given to the petitioner from time to time as a result of stagnation on the same post.

3. Learned counsel further submitted that the Accountant General, Bihar has not considered the fact that any financial upgradation on account of benefit received by the petitioner on account of time bound promotion or as a result of grant of A.C.P. and M.A.C.P. will not amount to regular promotion. He further submitted that recently, the issue has already been settled by the Apex Court in case of ***Amresh Kumar Sinha & Ors. vs. the State of Bihar & Ors., SLP (C) Nos. 8219-8226 of 2019***. He further submitted that his case is similar to that of ***Chandrakant & Ors. vs. the State of Bihar & Ors.***, in which vide judgment dated **23.09.2022** passed in ***CWJC No. 2783 of 2021*** and other analogous cases, the co-ordinate Bench of this Court has taken into consideration the law laid down by the Apex Court in case of ***State of Punjab & Ors. vs. Rafiq Masih (white washer) & Ors.*** reported in **(2015) 4 SCC**



334 and **Thomas Daniel vs. the State of Kerala & Ors.** reported in **2022 SCC Online SC 536** and has made following observations and directions in paragraphs no. 31 and 32, which is reproduced hereinunder:-

“31. In view of the above, the contention raised by the petitioners of having benefit of ACP Scheme or MACP Scheme fails and the order passed by the respondents, dated 10.11.2020 and consequential orders thereto are upheld holding that the petitioners would only be entitled to the benefits granted to them under Circular, dated 16.11.2000.

32. However, it is further held that the petitioners and other teachers who were wrongfully granted benefit of ACP/MACP would have to get their pay fixation revised and if they have retired, their pension would also be accordingly revised. But, no recovery shall be made for the extra amount which they have received.”

4. In above backgrounds, petitioner seeks to file a detailed representation before the District Programme Officer (Establishment), Sitamarhi, who is directed to call for the service records relating to the petitioner and take appropriate steps to sanction in light of the law laid down by the Apex Court, which has been relied by the petitioner and taken note of in the above paragraph of this order and must ensure to sanction for fixation of pension within a period of three weeks by sending sanction letter to the Accountant General, Bihar within



the aforesaid period.

5. The Accountant General, Bihar, is directed to correct the mistake, which has been committed in case of the petitioner after receiving the sanction letter from the District Programme Officer (Establishment), Sitamarhi, within a further period of three weeks, thereafter, he is directed to communicate a copy of authority/P.P.O. to the Treasury Officer, Sitamarhi, within the aforesaid period. The Treasury Officer, Sitamarhi, must not fail to credit the entire amount into the account of the petitioner forthwith.

6. In case, the order is not complied with, the petitioner is at liberty to take legal action against the concerned authority, who has deliberately delayed the matter of payment of pension and other retiral benefits to which the petitioner is entitled for in accordance with law.

7. With above observations and directions, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/Nilmani

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	18.09.2023
Transmission Date	N/A

