

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2399 of 2022

-
1. Dheeraj Kumar Verma, Son of Late Baleshwar Prasad, Resident of Mohalla - Gopi Babu Hata Salempur Chapra, P.S. - Chapra Town, District - Saran.
 2. Dhaneshwar Rai, Son of Late Jugeshwar Rai, Resident of Mohalla - Bra Telpa, P.S. - Chapra Town, District - Saran.
 3. Bisram Sah, Son of Late Jhumak Sah, Resident of Village - Punak, P.S. - Darauli, District - Siwan.
 4. Sunil Kumar Srivastava, Son of Late Nawal Kishore Prasad, Resident of Village - Sughar Chapra, P.S. - Manjhi, District - Saran (Chapra).
 5. Dilip Kumar Singh, Son of Late Manan Prasad, Resident of Mohalla - Hospital Chowk, Chapra, P.S Chapra Town, District- Chapra.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Additional Chief Secretary, Road Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Patna.
2. Chief Engineer, North Bihar Wing, Road Construction Department, Government of Bihar, Vishweshwaraiya Bhawan, Bailey Road, Patna.
3. Superintending Engineer, Saran Road Circle, Road Construction Department, Hajipur.
4. Executive Engineer, Road Division, Road Construction Department, Gopalganj.
5. Executive Engineer, Road Division, Road Construction Department, Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Kishore Kumar Thakur, Adv. Mr.Braj Kishore Singh, Adv. Mr.Rajesh Kumar, Adv.
For the Respondent/s	:	Mr.Syed Iqbal Ahmad, SC- 20 Mr.Mahendra Prasad Verma, AC to SC-20

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 03-01-2024 1. The present writ petition has been filed to grant the benefits of A.C.P./M.A.C.P. scheme to the petitioners with effect from the due date, without the authorities being impeded by the fact that the petitioners have not passed the Departmental Accounts Examination.



2. Though the learned counsel for the respondent-State has submitted that the petitioners have been granted the benefits of A.C.P/M.A.C.P. scheme, only after they have passed the Departmental Accounts Examination, however, he has not been able to controvert the law in this regard, which is now well settled, to the effect that non-passing of the Departmental Accounts Examination in time cannot be an impediment to grant of the benefits of A.C.P/M.A.C.P. scheme.

3. I have heard the learned counsel for the parties and I find that the law regarding the issue under consideration is no longer *res 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 11.05.2022, has held that non-passing of departmental examination shall not be an impediment to grant of the benefits of time bound promotions/A.C.P/M.A.C.P. 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 10.03.2014, 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 Apec 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* (supra), it has been held that extending the benefits of A.C.P., 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 A.C.P/M.A.C.P., passing of any exam is not necessary.

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



5. Having regard to the facts and circumstances of the case, this Court deems it fit and proper to hold that such orders, passed by the respondents, which effect the grant of the benefits of A.C.P/M.A.C.P. scheme in time to the petitioners, i.e. passed by not taking into account the requisite length of service with effect from the date of entry of the petitioners in service shall stand annulled. Consequently, the respondents are directed to grant the benefits of A.C.P/M.A.C.P. scheme to the petitioners with effect from the due date without being impeded by the fact that the petitioners have not passed the Departmental Accounts Examination in time.

6. The writ petition stands allowed.

(Mohit Kumar Shah, J)

sonal/-

U			
---	--	--	--

