

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7477 of 2023

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Kiriti Manik Mitra Son of Late Guru Pada Mitra, Resident of Mohalla-
Gurudwara Road (Land Mark-Central Water Commission Office), P.O.-
Purnea (H.O.), P.S.- K. Hat, Purnea, District- Purnea, Bihar, PIN- 854301

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Bihar.
2. The Chief Secretary, Government of Bihar.
3. The Principal Secretary, Water Resources Department, Government of Bihar.
4. The Under Secretary, (Management), Water Resources Department, Government of Bihar, Patna.
5. The Executive Engineer, Western Kosi Canal Division, Khajauli, District- Madhubani (Bihar), Pin- 847228 (Old Address- The Executive Engineer, Western Kosi Canal Division No. 1, Jaynagar, Madhubani, Bihar)
6. The District Treasury Officer, Purnea, Bihar.
7. The District Treasury Officer, Madhubani, Bihar.
8. The Accountant General, Bihar Patna Mahalekhakar Bhawan, Veerchand Patel, Path, Patna- 800001.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Deepak Kishore, Advocate
For the State	:	Mr. Vinay Kirti Singh (GA- 2)
	:	Mr. Rajan Prakash, (AC to GA-2)
For the Accountant General	:	Mr. Vivekanand Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 21-11-2024 Heard Mr. Deepak Kishore, learned counsel

appearing on behalf of the petitioner and Mr. Vinay Kirti Singh

(GA- 2) along with Mr. Rajan Prakash, (AC to GA-2) , learned

counsel appearing on behalf of the State and Mr. Vivekanand

Kumar, learned counsel appearing on behalf of the Accountant

General.

2. The petitioner, in paragraph no. 1 of the present



writ petition, has sought, inter alia, the following relief(s),
which is reproduced hereinafter:-

“ 1. That this writ application has been filed on behalf of the petitioner abovenamed for issuance of an appropriate writ, order or direction:

(I) Issuance of an appropriate writ/writs, order/orders, direction/directions to provide M.A.C.P. (Modified Assured Career Progression Scheme), for which the petitioner is entitled on completion of 30 years, of service to work as Assistant Engineer (Mechanical) in Water Resources Department, Government Plaintiff. of Bihar, in favour of plaintiff.

(II) For a further direction on the respondents due to the negligence of the respondents, M.A.C.P. (Modified Assured Career Progression Scheme), benefits, even after retirement of the petitioner has not been done till date, so M.A.C.P. (Modified Assured Career Progression Scheme) should be paid alongwith interest.

III) For a further direction to the respondents, M.A.C.P. (Modified Assured Career Progression Scheme), financial benefits for service period (from 05.02.2009 to 31.10.2020) as well as the period after retirement (from 01.11.2010 to till now), periods should be paid both from the Purnea Treasury read with pension paying Bank named: State Branch, Bank of India Road, Bhawan Kala (I.F.S.C. No. of Bank Main Purnea SBIN0000159) since petitioner is 72 years old and helpless/unable illness. to walk due to illness.

(IV) And other relief or reliefs be also granted to the petitioner for which they may be found entitled too.”

3. Learned counsel appearing on behalf of the petitioner informs that the petitioner was appointed as Assistant Engineer(Mechanical) Water Resources Department in Bihar Government and retired from the service on 31.10.2010 from the post of Assistant Engineer (Mechanical) from the office of Executive Engineer Western Kosi Canal Division no.1,



Jaynagar, Madhubani, Bihar. The petitioner became entitled for MACP on 05.02.2009 but till date the same has not been given to the petitioner. However, petitioner seeks to file a detailed representation before the authority concerned in light of the law laid down by the Apex Court in the case of **Amresh Kumar Singh & Ors. Vs. The State of Bihar & Ors.** reported in **2023 SCC OnLine SC 496** and the recent judgment dated 28.06.2024 of the Hon'ble Full Bench of this Court passed in **CWJC No. 18727 of 2017 (Kamlanand Thakur Vs. The State of Bihar)** and other analogous matter.

4. Considering the aforesaid information given by the petitioner, I find it proper to refer **Rule 4 (5) of Bihar State Employees Service Condition (Assured Career Progression Scheme) Rules, 2003** is reproduced hereinafter.

“(4) Eligibility and conditions

(5) The requirements and manner of grant of financial progression under the Scheme shall be the same which have been prescribed for regular promotion against vacancies under recruitment/ appointment Rules. If for any promotion passing of departmental examination or any other eligibility has been prescribed then the same would also be necessary condition for grant of benefit under the Scheme if such condition is prescribed under Rules/Circulars/Resolutions.”

5. The terms and conditions, as per Rule 4(5) of the



2003 Rules, is that the requirement for grant of financial progression would be the same as prescribed for grant of regular promotion under service rules/orders governing grant of regular promotion.

6. Considering the provision of the Scheme, the applicable Rule governing grant of regular promotion to the petitioner puts condition that an employee is mandatorily required to be adjudged fit to be promoted before grant of regular promotion i.e. in other words, his service should not be unsatisfactory.

7. In view of the fact that the petitioner has claimed that he has been stagnated on the same post and seeks to file a detailed representation before the authority concerned, the authority concerned is required to call for the service particulars of the petitioner and verify, as to whether any disciplinary action or any penalty order has been passed against him and decide the grievance of the petitioner expeditiously, in light of the law laid down by the Apex Court in the case of **Amresh Kumar Singh** (Supra) and the Full Bench of this Court in the case of **Kamlanand Thakur** (Supra).

8. It is, however, worth to be noted that ACP/MACP scheme is a financial progression given to an employee, which



is time-bound scheme, as a result of stagnation of government servant on the same post.

9. With the above observation/direction, the present writ petition stands disposed of.

(Purnendu Singh, J)

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