

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.13885 of 2013**

=====

Udit Narayan Yadav Son of Laxami Yadav, Resident of Village- Salkhua, P.S.-  
Salkhua, District- Saharsa

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Chief Engineer, Water Resources Department, Birpur, District- Supaul
3. The Executive Engineer, Easter Embankment Division, Supaul

... .. Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Arun Kumar Jha, Advocate

For the Respondent/s : Mr. Girija Shankar Pd., Advocate

=====

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH**  
**ORAL ORDER**

7      30-09-2024                      Heard Mr. Arun Kumar Jha, learned counsel  
  
                                                 appearing on behalf of the petitioner and Mr. Girija Shankar  
  
                                                 Prasad, learned counsel appearing on behalf of the respondents.

2. The petitioner in paragraph no. 1 of the present writ  
  
petition has sought, inter alia, following relief(s), which is  
  
reproduced hereinafter:-

*“a. For issuance of writ in the nature of mandamus  
commanding and directing the respondent concerned to  
give benefit of First and Second A.C.P counting the  
service period from the initial date of regularisation of  
his service keeping in mind that petitioner is going to  
retire from his service in the month of January 2014.  
b. For holding and declaration that petitioner is entitled  
to get first and second A.C.P from the date of  
regularisation of his service.  
c. And/or pass such other order or orders as deem fit and  
proper in the interest of justice.”*

3. Learned counsel appearing on behalf of the  
  
petitioner informs that the petitioner was appointed on



26.06.1975 on the post of Work Supervisor and superannuated from service in the month of January, 2014, while he was working on the post of Account Clerk. The benefit of 1<sup>st</sup> and 2<sup>nd</sup> ACP has not been given to the petitioner. 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**, which 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 the petitioner 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.)**

Mantreshwar/-  
Ashishsingh/-

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

