

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10447 of 2024

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Mukesh Kumar S/o-Late Ram Sharan Singh Resident of Mohalla- Near Devi
Asthan, Bhusanda, P.S.-Muffasil, District-Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Minor Water Resources Department, Government of Bihar, Patna.
2. The Principal Secretary, Finance Department, Government of Bihar, Patna.
3. The Additional Secretary, Minor Water Resources Department, Government of Bihar, Patna.
4. The Engineer in Chief, Minor Water Resources Department, Government of Bihar, Patna.
5. The Chief Engineer (Planning and Monitoring and Ground Water), Minor Water Resources Department, Government of Bihar, Patna.
6. The Chief Engineer, Minor Water Resources Department, (Minor Irrigation), Bhagalpur, District-Bhagalpur.
7. The Superintendent Engineer, Minor Irrigation Division, Munger, District-Munger.
8. The Executive Engineer, Minor Irrigation Division, Munger, District-Munger.
9. The Accountant General (A and E), Patna, a Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Siya Ram Shahi, Sr. Advocate Mr. Ram Sevak Chaudhary, Advocate
For the Respondent/s	:	Mr. Rakesh Ranjan, AC to GP-22

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 15-07-2024

Heard Mr. Siya Ram Shahi, learned senior counsel
along with Mr. Ram Sevak Chaudhary, learned counsel
appearing on behalf of the petitioner and Mr. Rakesh Ranjan,
learned AC to learned GP-22 for the State.

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



reproduced hereinafter:

"I. For issuance of an appropriate writ in quashing the memo No. 1152 dated 20.06.2024 issued under the signature of Chief Engineer, Minor Water Resources Department, Bhagalpur whereby and whereunder the claim of the petitioner for grant of 1st and 2nd ACP/MACP has been rejected on ground that he has not passed in all the papers of Accounts contained in annexure - 8.

II. For issuance of an appropriate writ commanding the respondents to grant and pay the benefit of 1st and 2nd ACP/MACP calculating the service period of the petitioner from 05.02.2002.

III. For issuance of any other relief/reliefs for which the petitioner is entitled under the law as well as on facts."

3. Petitioner is aggrieved by the Memo No. 1152 dated 10.06.2024 issued under the signature of Chief Engineer, Minor Water Resources Department, Bhagalpur by which the claim of the petitioner for grant of 1st A.C.P. and 2nd A.C.P. has been rejected on the ground that he has not passed in all the papers of Accounts.

4. Learned senior counsel appearing on behalf of the petitioner submitted that the rejection of the claim of the petitioner in respect of grant of 1st and 2nd A.C.P. is deliberate on the part of the Chief Engineer, Minor Water Resources Department, Bhagalpur, who, in complete disregard to the law laid down by the Apex Court in the case of ***Amresh Kumar Sinha & Ors. v. The State of Bihar & Ors. (SLP (C) Nos. 8219-8226 of 2016)***, has rejected the claim of the petitioner,



who is entitled for 1st A.C.P. and 2nd A.C.P. Petitioner has not faced any departmental proceeding or any penalty order till the date of impugned order passed by the Chief Engineer.

5. Considering the aforesaid submission made on behalf of the petitioner, as well as, the fact that law in respect of grant of benefit of financial progression by way of A.C.P. and M.A.C.P. is no more *res integra*. The Apex Court in the case of ***Amresh Kumar Sinha (supra)*** and Full Bench of this Court in ***Kamlanand Thakur vs. State of Bihar & Ors. (C.W.J.C. No. 18727 of 2017)*** and other analogous cases, has held that the financial progression is not a promotion and A.C.P. and M.A.C.P. scheme relates to time bound promotion for granting financial upgradation to the petitioners, who have not been given regular promotion. The impugned order dated 10.06.2024 contained in Memo No. 1152 ('Annexure-P/8' to the writ petition) is hereby set-aside and quashed.

6. The authority concerned may act in accordance with law laid down by the Apex Court in the case of ***Amresh Kumar Sinha (supra)*** and clarified by the Full Bench of this Court in the case of ***Kamlanand Thakur (Supra)*** and do not harass the petitioner.

7. The above exercise has to be carried out within a



period of six weeks from the date of communication of this order and the petitioner, as per his entitlement, is required to be paid entire amount within the aforesaid period.

8. In case, the petitioner is not entitled, he must be given personal hearing and, thereafter, a reasoned order in accordance with law, is required to be passed.

9. Accordingly, the present writ petition is disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	N.A.F.R.
CAV DATE	N/A
Uploading Date	16.07.2024
Transmission Date	N/A

