

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12521 of 2022

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Kamod Narayan Kumar @ Kumod Narayan Kumar S/o Late Ram Chandra Kumar, R/ob Village and Post- Kutka, P.S.- Singhwara, District- Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Old Secretariat, Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Director, Mass Education, Government of Bihar, Patna.
4. The Principal Secretary, Social Welfare Department, Government of Bihar, Patna.
5. The Director, Integrated Child Development Service, Social Welfare Department, Government of Bihar, Indira Bhawan, Bailey Road, Patna.
6. The Collector, Samastipur.
7. The Collector, Darbhanga.
8. The District Programme Officer (I.C.D.S.), Laheriasarai, Darbhanga.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kaushlesh Chaudhary, Advocate Mr. Shambhu Nath Jha, Advocate
For the State	:	Smt. Binita Singh (Sc 28)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date : 23-01-2024

The present writ petition has been filed
seeking the following reliefs:-

“i. For issuance of appropriate writ(s)/ rule(s)/ direction(s) in the nature of mandamus commanding the concerned respondents for grant of the benefits of Accelerated Carrier Progression (A.C.P.) and Modified Accelerate Carrier Progression (M.A.C.P.) to the petitioner from due date and for payment of all



consequential benefits thereof.

ii. For quashing of the order passed by the Collector, Samastipur, issued vide Memo No. 823 dated 11.4.22, by which the petitioner's claim for grant of ACP/MACP has been rejected, on erroneous consideration even without considering the Judgment and Order dated 09.04.2019 passed in C.W.J.C. No.5438 of 2019."

2. At the outset, the learned counsel for the petitioner, while assailing the impugned order dated 11.04.2022, passed by the District Magistrate, Samastipur, submits that the case of the petitioner for grant of the benefits of ACP/MACP scheme has been rejected merely on the ground that the petitioner has not been able to produce proof of passing the first paper of the departmental accounts examination finally. It is submitted that it is a well settled law that non-passing of the departmental accounts examination cannot be an impediment to grant of the benefits of ACP/MACP scheme and in this regard, the learned counsel for the petitioner has referred to a judgment rendered by the Hon'ble Apex Court in the case of **Amresh**



Kumar Singh & Ors. vs. the State of Bihar & Ors., reported in **2023 (2) PLJR (SC) 423**.

3. *Per contra*, the learned counsel for the respondent-State has opposed the present writ petition and has submitted that since the petitioner could not furnish proof regarding passing the first paper of the departmental accounts examination, his case has not been considered for grant of the benefits of ACP/MACP scheme, however, he has not been able to refute the law laid down by the Hon'ble Apex Court in the case of the **Amresh Kumar Singh & Ors** (supra).

4. I have heard the learned counsel for the parties and perused the materials on record.

5. This Court finds 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 11.5.2022, has held that non-passing of departmental examination shall not be an



impediment to grant the benefits of time bound promotions / ACP /MACP. 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 10.3.2014, 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 Apex 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 judgement, rendered by the Hon'ble Apex Court in the case of **Amresh Kumar Singh** (supra), it has been held that



extending the benefit of ACP, 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 ACP/MACP, passing of any exam is not necessary.

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

7. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, the impugned order dated 11.04.2022, passed by the District Magistrate, Samastipur is quashed and the respondent-authorities are directed to grant the benefits of ACP/MACP scheme to the petitioner with effect from the due date, without being impeded by the



fact that the petitioner has not passed the departmental accounts examination in time, although it is the contention of the learned counsel for the petitioner that he has passed the departmental accounts examination.

8. The writ petition stands allowed.

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.01.2024
Transmission Date	NA

