

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17412 of 2021

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Sunil Kumar Singh, Son of Late Srinath Singh, working as Village Level Worker (Jan Sevak) at Rafiganj Block, P.S.- Rafiganj, District - Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through District Magistrate Aurangabad.
2. The District Magistrate, Aurangabad.
3. The Senior Deputy Collector, Aurangabad.
4. The Block Development Officer, Rafiganj, District - Aurangabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Dineshwar Prasad Singh, Advocate
For the Respondent/s	:	Mr.Md. N H Khan (Sc1)
		Ms.Babita Kumari, AC to SC-1

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 10-01-2024

1. The present writ petition has been filed seeking the following relief(s):-

“1. That this is an application for issuance of appropriate writ, order/direction to set aside/declare non existing the denovo departmental enquiry started against the petitioner by order no. 15/2016-17 as contained in memo no. 253 dated 02.06.2016 as the same has not been concluded in spite of lapse of more than 5 years due to no evidence and to all the financial benefit like salary, subsistence allowance and of 2nd, 3rd ACP which is not being paid due to and in name of pendency of aforesaid



proceeding.”

2. Though the respondents were granted due opportunity to file counter affidavit as long back as on 10.11.2023, but they have not bothered to file any counter affidavit, which depicts that they have no opposition to the present writ petition.

3. Nonetheless, it is submitted by the learned counsel for the petitioner that only on account of pendency of a departmental proceeding, initiated initially in the year 2007, which has not stood concluded till date, the benefits of ACP scheme has not been granted to the petitioner, hence, while limiting the relief sought for in the present writ petition, it is prayed that the respondents be directed to grant the benefits of ACP/MACP scheme to the petitioner. It is further submitted that in any view of the matter the pendency of either a departmental proceeding or a criminal proceeding cannot be an impediment to grant of the benefits of ACP/MACP scheme to the incumbents. Reference in this regard has been made to a judgment, rendered by a co-ordinate Bench of this Court in the case of ***Ranjan Kumar Chauha Vs. The State of Bihar***, reported in **2008 (4) PLJR 244** as also upon an order dated 18.06.2018, passed by this Court in the case of ***Bijay Kumar Sinha Vs. The State of Bihar and Ors. (CWJC No.14609 of 2010)***.



4. Per contra, the learned counsel for the respondent-State has though opposed the present writ petition, but has not been able to controvert the aforesaid law laid down by this Court.

5. Having regard to the facts and circumstances of the case, this Court finds that since the grant of benefits of the ACP/MACP Scheme is not a promotion in the sense of a vertical moment from a lower post to a higher post but is only grant of certain monetary benefits on the same post to mitigate stagnation, the respondent-authorities cannot deny the benefits of ACP/MACP Scheme to the petitioner herein, merely on account of pendency of a departmental proceeding. In such view of the matter, this Court finds that the petitioner is entitled to be granted the benefits of ACP/MACP Scheme de hors the fact that a departmental proceeding is pending against him.

6. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, I deem it fit and proper to direct the respondent-authorities to consider the case of the petitioner for grant of the benefits of ACP/MACP Scheme, without being impeded by the fact that a departmental proceeding is pending against him and pass orders accordingly, within a period of four weeks of receipt/production of a copy of this order and in case any consequential benefits is required to be



paid, the same shall also be paid during the same time frame.

7. The writ petition stands allowed.

(Mohit Kumar Shah, J)

Saurav/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.01.2024
Transmission Date	NA

