

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17740 of 2021

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Sunil Kumar Son of Late Hari Prasad Resident of 501 Parvati Palace,
Sidharth Nagar, Jagdeo Path, Police Station Rupaspur, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Road Construction Department, Vishwesharaiya Bhawan, Bailey Road, Patna.
2. The Engineer-in-Chief, Road Construction Department, Vishwesharaiya Bhawan, Bailey Road, Patna.
3. The Finance Department (Personal Claim Cell), Patna.
4. The Executive Engineer, National Highway Division, Gulzarbagh, Road Construction Department, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rupak Kumar, Advocate
For the Respondent/s : Mr.Sushil Kumar (Gp22)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 21-02-2024

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

*“1. That this writ application is being filed for
issuance of writ in the nature of mandamus
directing the respondents to consider and grant
3rd M.A.C.P under modified Assured Career
Progression Scheme with effect from
17.04.2021 with all consequential benefits.”*

2. At the outset, the learned counsel for the petitioner
has referred to a judgment dated 18.06.2018, passed by this
Court in CWJC No.14609 of 2010 (Bijay Kumar Sinha Vs. The
State of Bihar and Ors.), relevant portion whereof is reproduced



hereinbelow:-

“The learned counsel for the petitioner submits that the only reason for denial of the 1st and 2nd A.C.P. to the petitioner herein is the pendency of a departmental proceeding, as has been contended in the counter affidavit filed by the Respondents. The learned counsel for the petitioner relies upon a judgment reported in 2008(4) P.L.J.R. 244 (Ranjan Kumar Chauhan v. State of Bihar) to contend that in a similar situation where the petitioner of that case was denied grant of benefit of the A.C.P. Scheme on account of pendency of a departmental proceeding and a criminal proceeding, this Court had directed for considering the case of the said petitioner for granting the benefit of the Assured Career Progression Scheme.

It is a trite law that the benefit of Assured Career Progression Scheme is not a promotion in the sense of the term of a vertical movement from a lower post to a higher post, but it is only a grant of certain monetary benefits on the same post on account of stagnation on the said post. In such view of the matter, the Respondent-authorities cannot deny the grant of benefits of the Assured Career Progression Scheme to the petitioner herein, especially, in view of the fact that there is no such



notification/circular of the State Government which bars grant of the benefits of the Assured Career Progression Scheme on account of pendency of either the departmental proceeding or a criminal proceeding.

In such view of the matter, I find that the petitioner is entitled to be granted the benefits of the Assured Career Progression Scheme de-hors the fact that a C.B.I case is pending against him.

Having regard to the facts and circumstances of the case, more particularly the fact that the Respondents, in their counter affidavit, have failed to produce any notification or circular of the State Government to show that the benefits of Assured Career Progression Scheme cannot be granted to a person against whom either a departmental proceeding or a criminal proceeding is pending, the present writ petition is allowed and the Respondents are directed to grant the benefits of the 1st and 2nd Assured Career Progression Scheme to the petitioner within a period of four weeks from today. The consequential benefits be granted within a period of six weeks thereafter.”

3. In view of the aforesaid, the learned counsel for the petitioner submits that pendency of either a departmental



proceeding or a criminal proceeding cannot be an impediment to grant of the benefits of 3rd MACP to the petitioner herein.

4. The learned counsel for the respondent-State has though vehemently opposed the prayer, made by the petitioner in the present writ petition, however, he has not been able to controvert the law laid down by this Court in the aforesaid judgment rendered in the case of Bijay Kumar Sinha (Supra).

5. Having regard to the facts and circumstances of the case, I deem it fit and proper to direct the Engineer-in-Chief, Road Construction Department, Patna to consider the case of the petitioner for grant of the benefits of 3rd MACP, without being impeded by the fact that any departmental/criminal proceeding is pending against him and pass appropriate orders, within a period of four weeks of receipt/production of a copy of this order.

6. The writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

Saurav/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	13.03.2024
Transmission Date	NA

