

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11522 of 2023

Radha Krishna Prasad S/o Late Baleshwar Narayan, permanent resident of Village Paroha, P.O. Paroha, P.S. Manpur, District Nalanda, at present resident of C/o Sri Sanjay Sinha, South of Krishna Niketan School Mohalla Jakariyapur Path Patna, P.O. Pahari, P.S. Ram Krishna Nagar, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Road Construction Department having his office at Vishwasaraiya Bhawan, District Patna.
2. The Engineer-in-Chief (Headquarter) Road Construction Department having his officer at Vishweshsariya Bhawan, P.s. Shastri Nagar, District Patna.
3. The Under Secretary personal (Finance) Claim Cell, having his officer at Anwexi Building Old Secretariat, P.S. Sachivalaya, District Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sharwan Kumar, Sr. Adv. Mr.Jai Ram Singh, Adv. Mr.Vikas Mohan, Adv.
For the State	:	Mrs.Puspanjali Sharma, Adv.
For the Respondent/s	:	Mr.Syed Iqbal Ahmad, SC-20

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 08-01-2024

1. The present writ petition has been filed for quashing the order dated 07.07.2023, passed by the Engineer-in-Chief, (Headquarters) Road Construction Department, Government of Bihar, Patna, whereby and whereunder the case of the petitioner for grant of the benefits of M.A.C.P. scheme has been denied, merely on the ground of pendency of a criminal case.

2. The learned senior counsel for the petitioner has submitted that the petitioner has superannuated from service on



31.12.2021, while working as Assistant Engineer in the office of the Chief Engineer, (South) Road Construction Department, Government of Bihar, Patna and during his service period he was promoted to the post of Assistant Engineer, vide Memo dated 26.03.1994 and had also passed the Departmental Examination and Hindi Examination in the year, 2005 and 2006, respectively. It is submitted that the petitioner is not being granted the benefits of M.A.C.P. scheme, merely on the ground that one F.I.R. had been lodged against the Executive Engineer and Contractor, bearing C.B.I. Case No. RC13(A)/09 and RC11(A)/09, which is pending, wherein the petitioner has been subsequently arrayed as an accused.

3. The learned senior counsel for the petitioner has contended that the law in this regard is no longer *res integra*, inasmuch as in a similar situation, where the petitioner of that case was denied the benefits of the A.C.P. scheme on account of pendency of departmental proceeding and a criminal proceeding, a co-ordinate Bench of this Court has directed for considering the case of the petitioner for grant of the benefits of A.C.P. scheme. Reference in this connection has been made to a judgment rendered by a co-ordinate Bench of this Court in the case of ***Ranjan Kumar Chauhan vs. State of Bihar 2008(4)***



P.L.J.R. 244. The learned senior counsel for the petitioner has also referred to a judgment dated 18.06.2018, passed in C.W.J.C. No.14609 of 2010 (***Bijay Kumar Sinha vs. The State of Bihar and Ors.***), to contend that grant of the benefits of M.A.C.P. 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 grant of certain monetary benefits on the same post in order to mitigate the effect of stagnation, hence mere pendency of either a departmental proceeding or a criminal proceeding would not be an impediment for grant of the benefits of A.C.P./M.A.C.P. scheme. Reliance is also placed on a judgment rendered by a co-ordinate Bench of this Court dated 02.09.2021, passed in C.W.J.C. No.2866 of 2020 (***Vijay Kumar Jha vs. The State of Bihar & Ors.***).

4. Per contra, though the learned counsel for the respondent-State has submitted that since the petitioner is an accused in a criminal case, which is still pending, he has not been granted the benefits of M.A.C.P. scheme, however, he has not been able to contradict the law laid down in the aforesaid judgments, referred to by the learned senior counsel for the petitioner.

5. Having regard to the facts and circumstances of



the case and considering the submissions made by the learned counsel for the parties as also taking into account the law laid down by this Court in the case of *Ranjan Kumar Chauhan* (supra), *Bijay Kumar Sinha* (supra) and *Vijay Kumar Jha* (supra), this Court finds that mere pendency of a departmental or a criminal proceeding cannot be an impediment for grant of the benefits of A.C.P./M.A.C.P. scheme to an incumbent, hence this Court finds that the order dated 07.07.2023, passed by the Engineer-in-Chief (Headquarters), Road Construction Department, Government of Bihar, Patna is perverse and contrary to law, hence is quashed.

6. The respondents are directed to consider the case of the petitioner for grant of the benefits of M.A.C.P. scheme, without being impeded by the fact that a criminal proceeding is pending qua him, within a period of two weeks of receipt/production of a copy of this order.

7. The writ petition stands allowed.

(Mohit Kumar Shah, J)

sonal/-

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

