

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11280 of 2024

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Mohan Pandey, Son of Late Ramnath Pandey, Resident of Village-
Banwaripur Mora, P.O. and P.S.- Bena, District- Nalanda (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Department of Home, Govt. of Bihar, Patna.
2. The Inspector General of Police, (Headquarter), Bihar, Patna.
3. The Inspector General of Police, Magadh Range, Gaya.
4. The Superintendent of Police, Nawada.
5. The Superintendent of Police, Nalanda.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Lalan Kumar, Advocate.
For the Respondent/s : Standing Counsel (18)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 30-07-2024

Heard Mr. Lalan Kumar, learned counsel appearing on
behalf of the petitioner and learned SC-18 for the State.

2. At the outset, learned counsel appearing on behalf of the petitioner submitted that the the petitioner seeks implementation of the order dated 20.03.2024, however, due to inadvertent typographical mistake, it has been typed to set aside the said order in paragraph no.1 of the writ petition. Learned counsel appearing on behalf of the petitioner submits that the petitioner has filed his representation before the Inspector General of Police (Headquarter), Bihar, Patna for grant of reliefs mentioned therein, but the claim of the petitioner in respect of



entitlement for 1st ACP, 2nd & 3rd MACP has not been considered in spite of the fact that, as on date, law has been laid down by the Apex Court in the case of **Amresh Kumar Singh & Ors. Vs. The State of Bihar & Ors.** reported in **(2023) 2 PLJR (SC) 423**, and by the Hon'ble Full Bench of this Court in **CWJC No. 18727 of 2017 (Kamlanand Thakur Vs. The State of Bihar)** vide order dated 28.06.2024, holding that financial upgradation is on account of stagnation on a particular post for a long period of time and cannot be considered as promotion. Petitioner's case is required to be considered in light of the law laid down by the Apex Court in the case of **Amresh Kumar Singh (supra)** and by the Hon'ble Full Bench of this Court in the case of **Kamlanand Thakur (Supra)**. In these background, learned counsel submitted that the order dated 20.03.2024 contained in Memo No. P-05/01-2023/65 is required to be set aside to the above extent.

3. Learned counsel further submits that he will file a detailed representation before the Inspector General of Police (Headquarter) along with the law laid down by the Apex Court in the case of **Amresh Kumar Singh (supra)** and by a Full Bench of this Court in the case of **Kamlanand Thakur (supra)** for considering his case for payment of ACP and MACP.



Learned counsel further submitted that even though the petitioner was not unauthorizedly absent for three days and has given his explanation, the authority has deducted three days salary of the petitioner which has a penal consequence. Learned counsel, in these background, submitted that the competent authority must consider the grievance of the petitioner and his explanation to the extent that he would have not absented willfully and authorities too have admitted that absence from duty will not constitute misconduct.

4. Considering the limited relief sought for by the petitioner, the petitioner, if so advised, may file a comprehensive representation before the Inspector General of Police who had admittedly taken note of the fact that the absence of the petitioner will not constitute misconduct and further the representation of the petitioner has to be disposed of in respect of his claim for payment of ACP and MACP in accordance with law as laid down by the Apex Court in the case of **Amresh Kumar Singh (supra)** and by the Full Bench of this Court in the case of **Kamlanand Thakur (supra)**. The representation of the petitioner, who as on date has retired, must be considered expeditiously well within a period of six weeks, so that the petitioner may not suffer from the terminal benefits



which is payable to him in accordance with law.

5. The writ petition stands disposed of.

(Purnendu Singh, J)

mantreshwar/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	01.08.2024
Transmission Date	N.A.

