

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12221 of 2024

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Nirmal Kumar Sinha Son of Late Dhruvdeo Prasad, resident of Mohalla-Madarsa Gali, Ward No. 16, Police Station-Raxaul, District-East Champaran, Motihari.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Water Resource Department, Government of Bihar, Patna.
2. The Principal Secretary, Water Resource Department, Government of Bihar, Patna.
3. The Chief Engineer, Irrigation Creation, Water Resource Department, Motihari.
4. The Executive Engineer, Ghorasahan Canal Division, Raxaul.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ravindra Kumar Singh, Advocate
For the Respondent/s	:	Mr.K.P.Gupta, G.P.10
		Mr.Satya Vrat, AC to GP 10

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 19-08-2024 Heard Mr. Ravindra Kumar Singh, learned counsel appearing on behalf of the petitioner and Mr. K.P.Gupta, learned GP 10 along with Mr. Satya Vrat, learned AC to GP 10 for the Respondents/State.

2. Learned counsel appearing on behalf of the petitioner has specifically stated that neither the petitioner has faced departmental proceeding nor any order of punishment has been passed during his entire service period but the Chief Engineer, Water Resources Department in a very misconceived manner and in complete disregard of the order passed by the



Apex Court in the case of **Amresh Kumar Sinha & Ors. v. The State of Bihar & Ors.** reported in **2023 SCC Online SC 496**, as well as, clarification made by the Full Bench of this Hon'ble Court in case of **Kamlanand Thakur vs. State of Bihar & Ors. (C.W.J.C. No.18727 of 2017)** has denied the legitimate claim of the petitioner for grant of benefit of first ACP and the second MACP w.e.f. 02.04.2005 and 02.04.2013 respectively and in a very misconceived manner has granted the said benefit w.e.f. 12.10.2007 and 12.10.2017 respectively on the ground that the petitioner has passed the departmental accounts examination on 11.10.2007 whereas the Apex Court in the said judgment has made it clear that the ACP and the MACP is given as a financial progression on account of stagnation on the same post and not as a result of any promotion.

3. I find that the Chief Engineer has been carried by his own whims by not following the law. The rejection of the claim of the petitioner to grant benefit of the ACP and MACP scheme can not be sustained.

4. Considering the aforesaid facts of the case, I find that the petitioner has made out a case to be interfered with the order dated 18.04.2024 contained in Memo No.1019 passed by the Chief Engineer, Water Resources Department, Motihari,



accordingly, the order dated 18.04.2024 contained in Memo No.1019 is set aside and quashed and the authority concerned is directed to pass a fresh order in the light of the law laid down by the Apex Court in the case of **Amresh Kumar Sinha** (Supra) and the Full Bench of this Court in the case of **Kamlanand Thakur** (Supra).

5. With the above observation/direction, the present writ petition stands disposed of.

(Purnendu Singh, J)

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