

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14417 of 2022

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Anant Prasad Singh S/o Lakashman Prasad Singh, Resident of Raja S.N.
Road, Mashak Chak, Post- Mashak Chak, Bhagalpur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Schedule Cast and Schedule Tribe Welfare Department, Bihar, Patna.
2. The Joint Secretary, Schedule Cast and Schedule Tribe Welfare Department, Bihar, Patna.
3. The Director, Schedule Cast and Schedule Tribe Welfare Department, Bihar, Patna.
4. The District Magistrate, Bhagalpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Jai Ram Singh, Advocate
For the State	:	Mr.Kumari Amrita (Gp 3)
		Mr. Mithilesh Kumar Upadhayay, AC to GP-3

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT
Date : 27-03-2024

The present writ petition has been filed
seeking the following relief:-

“1. This petition is being filed for the issuance of writ in the nature of mandamus for direction to grant of benefit of Sunishit Vrit Unnayan Yogyna [Hereafter referred as A.C.P.] and Rupantar Sunishit Vrit Unnayan Yogyna [Hereafter referred as M.A.C.P.] to the petitioner, which is pending before the government of Bihar from years.”

2. At the outset, the learned counsel for the



petitioner submits by referring to the counter affidavit filed in the present case that the case of the petitioner for grant of the benefits of ACP/MACP scheme is not being considered, inasmuch as the petitioner has not qualified paper I and II of the Departmental Accounts Examination as well as has not cleared computer proficiency test.

3. The learned counsel for the petitioner has relied upon a judgment dated 08.01.2024, rendered by this Court in the case of **Radha Krishna Prasad vs. the State of Bihar & Ors** (CWJC No.11522 of 2023), to submit that non-passing of the departmental exam cannot be an impediment to grant of the benefits of the ACP/MACP scheme.

4. Per contra, though the learned counsel for the respondent-State has though opposed the present writ petition, however, he has not been able to controvert the law laid down by this Court in the case of **Radha Krishna Prasad** (supra).

5. I have heard the learned counsel for the parties and perused the materials on record.



6. This Court finds that the law regarding the issue under consideration in the present writ petition is no longer *res integra*, inasmuch as a learned Division Bench of this Court in the case of the ***State of Bihar & Ors. vs. Ram Subhag Singh*** (LPA No. 4 of 2021), reported in ***2022 (2) PLJR 773***, by a judgment dated 11.5.2022, has held that non-passing of departmental examination shall not be an impediment to grant of the benefits of time bound promotions / ACP /MACP. In fact, this aspect of the matter has also been decided by a judgment, rendered by this Hon'ble Court in the case of ***State of Bihar & Ors. vs. Anjani Kumar***, reported in ***2013 (2) PLJR 643***, which has also been upheld by the Hon'ble Apex Court, by an order dated 10.3.2014, passed in SLP (C) No. 19182 of 2013. In this regard, reference be also had to a judgment rendered by the learned Division Bench of this Court in the case of ***State of Bihar & Ors. vs. Smt. Jivachi Devi***, reported in ***2020 (2) BLJ 471***, which has also been upheld by the Hon'ble Apex Court, in view of the dismissal of



the Special Leave Petition filed by the respondent-State. It would be equally gainful to refer to a judgment rendered by the learned Division Bench of this Court in the case of ***The State of Bihar & Ors. vs. Shri Krishna Singh & Anr. (L.P.A. No. 372 of 2019)***. In a recent judgement, rendered by the Hon'ble Apex Court in the case of ***Amresh Kumar Singh*** (supra), it has been held that extending the benefit of ACP, which is purely and simply in the nature of grant of monetary benefit without actually effectuating any promotion to any higher post, cannot be withheld for not possessing additional educational qualification, hence for the purposes of granting benefits of ACP/MACP, passing of any exam is not necessary.

7. Thus, there is no iota of doubt that the petitioner has to be granted the benefits of the Assured Career Progression scheme as also that of MACP scheme, *de hors* the fact that the petitioner has not passed the Departmental Accounts Examination or for that matter has not cleared the computer proficiency test, in case he has not been



promoted, in order to deal with the problem of stagnation.

8. Having regard to the facts and circumstances of the case, I deem it fit and proper to direct the Secretary, the Scheduled Castes and the Scheduled Tribes Welfare Department, Government of Bihar, Patna to consider the case of the petitioner for grant of the benefits of ACP/MACP scheme with effect from the due date, without being impeded with the fact that the petitioner has not passed either the departmental accounts examination or the computer proficiency test, and pass a reasoned and a speaking order, within a period of four weeks of receipt/production of a copy of this order.

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

(Mohit Kumar Shah, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.03.2024
Transmission Date	NA

