

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12885 of 2024

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1. Suresh Kumar Verma S/o- Late Srinath Sahay, R/o- LH-1/14, Housing Colony, Chandwa Arrah, P.S.- Nawada, Arrah, Bhojpur.
 2. Ashok Kumar Singh, S/o- Late Bindeshwari Singh, R/o- Jamunipur Mahadevasthan, Maner, Patna, Maner, Bihta- 801108.

... .. Petitioner/s

Versus

1. The State of Bihar
2. The Additional Chief Secretary, Finance Department, Government of Bihar, Patna.
3. The Additional Chief Secretary, Water Resources Department, Government of Bihar, Patna.
4. The Deputy Secretary, Water Resources Department, Government of Bihar, Patna.
5. The Chief Engineer, Water Resources Department, (now Irrigation Creation), Dehri on Sone, Rohtas
6. The Executive Engineer, Sone High Level Canal Division, Bhabhua.
7. The Executive Engineer, Durgawati Dam Division No. 2, Bhitri Bandh Camp, Chenari, Rohtas.
8. The Accountant General (A and E), Bihar, Mahalekhakar Bhawan, Birchand Patel Path, Patna- 800001.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms. Y. Madhavi, Advocate Mr. Sanjay Kumar, Advocate
For the Respondent/s	:	Mr. Jitendra Kumar Roy-1, SC-13, Mr. Bijay Bhushan Prasad, AC to SC-13
For the Accountant General	:	Mr. Vivekanand Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

2 05-09-2024 The petitioners have filed the instant writ petition for the following reliefs :-

“(i) For issuance of an
order/direction/appropriate writ commanding the
Respondent to extend the benefit of judgment dated
25.04.2023 passed by Hon’ble Apex Court as
contained in Annexure-6 by revising 1st, 2nd ACP and



3rd MACP to the petitioners in the basic grade of Accounts Officer i.e. in the scale of Rs.6500-10500 (PB-2+4800), Rs.10000 to 15200 (PB-3+6600) Grade Pay 7600 respectively which is the pay scale of the post of Accounts Officer in the channel of promotion from the cadre of Accounts Clerk.

(ii) For direction upon the Respondents to grant similar relief which has been granted to the petitioners of CWJC No.19442 of 2016 (Amresh Kumar Sinha and others Vs. State of Bihar and others), which has been upheld by Hon'ble Apex Court vide order dated 25.04.2023 passed in SLP(C) No. 8219-8226 of 2019 in view of Bihar Litigation Policy as the Petitioners are similarly situated.

(iii) For an order direction or appropriate writ declaring that Resolution No.163 dated 08.01.2016 of the Finance Department whereby ACP as per Bihar Accounts Rules 2000 was given only to those employee who were graduate to be bad and unsustainable in the light of judgment dated 25.04.2023 passed in SLP(C) No.8219 of 2019 whereby the Hon'ble Apex Court held that the Accounts Clerk are entitled for financial upgradation under the ACP on completion of requisite regular service ignoring the higher qualification prescribed for the next higher post.

(iv) Any other order/orders for which the petitioners are found entitled to in the facts and circumstances of the case.”



2. Indisputably, the petitioners were appointed as Accounts Clerk in the office of the Chief Engineer, Water Resources, Department, Dehri-on-Sone, Rohtas. It is the allegation of the petitioners that they were not promoted as Accounts Clerk due to their educational qualification. On the issue as to whether, an employee is entitled to get ACP and MACP. When the petitioners were not granted promotion from Accounts Clerk to Accounts Officer due to their lack of academic qualification, a writ petition was filed in this Court which traveled upto the Hon'ble Supreme Court. The Hon'ble Supreme Court in SLP(C) No.8219-8226 of 2019 directed vide order dated 25.04.2024 which runs thus :-

“In view of the aforesaid legal position coupled with the fact that the qualification of graduation prescribed in for the promotion to the post of Accounts Officer rather than for the grant of in situ promotion on the non-functional post or for 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, we are of the opinion that the judgment and order of the Division Bench of the High Court impugned in the appeals cannot be sustained. It is accordingly hereby set aside and that the judgment of the writ court dated 28.11.2017 is restored. The appellants are extended the benefit of ACP, as



directed by the writ court.”

3. The petitioners are now claiming 1st ACP, 2nd ACP and 3rd MACP on the basis of the judgment passed by the Apex Court on 25.04.2023, the operating portion of which is quoted below.

4. The instant writ petition is disposed of directing the respondent Nos. 3, 4 and 5 to decide the issue of granting 1st ACP, 2nd ACP and 3rd MACP to the petitioners treating the writ petition as a representation, within 90 days from the date of communication of this order.

5. The learned Advocate on behalf of the State-Respondents is directed to send a copy of the writ petition to the above named respondents for consideration of the matter within the time framed.

6. With the above order, the instant writ petition is disposed of.

(Bibek Chaudhuri, J)

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