

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17024 of 2022

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Dwarika Singh S/o Late Rameshwar Singh, Resident of Kuldeep Nagar, Post-Sandha, P.S.- Chapara Sadar, District- Chapara, (Saran), Bihar.

... .. 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, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jai Ram Singh, Adv.

For the Respondent/s : Mr. Rajesh Kumar, AC to GP-3

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL JUDGMENT

Date : 09-04-2024

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 directing the Respondents to grant benefit of Sunischit Virt Unnayan Yogna (hereafter referred to A.C.P.) and Rupanterit Sunischit Virt Unnayan Yogna (hereinafter referred to MACP) to the petitioner, which is pending before the Government of Bihar from years.”



2. At the outset, the learned counsel for the petitioner submits that the petitioner has not been granted the benefits of ACP/MACP scheme, even after passage of the due dates, merely on the pretext that he has not passed the departmental accounts examination.

3. *Per contra*, the learned counsel for the Respondent-State submits that since the petitioner has not passed the departmental accounts examination, benefits of ACP / MACP has not been granted to the petitioner.

4. I have heard the learned counsel for the parties and gone through the materials on record.

5. This Court finds that the law regarding the issue under consideration 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 & Ors. vs. The State of Bihar & Ors.***, reported in *2023(2) PLJR (SC) 423*, 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.

6. 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, in case he has not been promoted, in order to deal with the problem of stagnation.

7. Having regard to the facts and circumstances of the case, I deem it fit and proper to direct the Director, Scheduled Caste and Scheduled Tribe Welfare Department, Bihar, Patna, to consider the case of the petitioner for grant of the benefits of ACP / MACP scheme to the petitioner from the due date, without being impeded by the fact that the petitioner has not passed the departmental accounts examination, by passing appropriate orders, within a period of six weeks of receipt / production of a copy of this order.

8. The present writ petition stands disposed off on the aforesaid terms.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	8.5.2024
Transmission Date	NA

