

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13677 of 2023

Vidya Bhushan Sharma Son of Late Ramvir Sharma, Resident of Mohalla-
Om Sai Sanjay Arpan House, Kumhrar, Agamkuan, Raj milk factory, dhanki,
Sampatchak, District- Patna, At present resident- Flat No.- 304, Radhe Shyam
Palace, Chanakya Nagar, near handicaped school, kumhrar, P.S.- Agamkuan,
District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary to govt. Water Resources
Department, Irrigation Bhawan, Old Secretariat Campus, Patna.
2. The Under Secretary, Water Resources Department, Irrigation Bhawan, Old
Secretariat Campus, Patna.
3. The Chief Engineer, Flood Control and Water Managerment, Water
Resources Department, Gopalganj.
4. The Superintending Engineer, Flood Control Circle, Gopalganj.
5. The Executive Engineer, Flood Control and Water Management Division,
Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Lalan Kumar Singh, Advocate Mr.Amit Anand, Advocate
For the Respondent/s	:	Mr.Anjani Kumar (AAG- 4)

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 19-03-2024

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

*“1. That by this writ application the
petitioner seeks indulgence of this
Hon’ble Court for issuance of an
appropriate writ or writs, direction or
directions commanding the
respondents to consider and grant the
1st time bound promotion w.e.f.
27.07.1983 and 1st and 2nd A.C.P. w.e.f.*



9.8.1999 and M.A.C.P w.e.f. 01.1.2009 with all consequential benefits including monetary benefits in the light of the policy decision/ Rule of the State Govt. as well as the law settled by the Hon'ble Court in this regard, although the said benefits granted to the similarly situated employees, by the respondents."

2. At the outset, the learned counsel for the petitioner submits that the case of the petitioner for grant of the benefits of ACP/MACP is not being considered only on the ground that the petitioner has not passed the departmental accounts examination. In this regard, the learned counsel for the petitioner has referred to a judgment rendered by this Court on 24.01.2024 in CWJC No. 15931 of 2021 (**Prem Kumar vs. The State of Bihar & Ors.**), to submit that it is now a well settled law that non-passing of the departmental accounts examination cannot be an impediment to grant of the benefits of ACP/MACP scheme.

3. *Per contra*, though the learned counsel for the State has opposed the prayer made in the present writ petition and has submitted that the



petitioner has not been granted the aforesaid benefits on account of him having not passed the departmental accounts examination, however, he has not been able to controvert the law laid down by this Court in the case of Prem Kumar (supra).

4. I have heard the learned counsel for the parties and perused the materials on record. The law with regard to the subject matter under consideration is no longer *res integra* inasmuch as the Hon'ble Apex Court has decided this aspect of the matter conclusively in the case of **Amresh Kumar Singh & Ors. vs. The State of Bihar & Ors.**, reported in **2023(2) PLJR (SC) 423**. The learned Division Bench of this Court in the case of **State of Bihar & Ors. vs. Anjani Kumar**, reported in **2013(2) PLJR 643**, as upheld by the Hon'ble Apex Court by an order dated 10.03.2014 passed in SLP (C) No. 19182 of 2013 has also held that non-passing of the departmental accounts examination cannot be an impediment to grant of the benefits of ACP/MACP scheme.

5. Having regard to the facts and



circumstances of the case and considering the law laid down by the Hon’ble Apex Court in the case of **Amresh Kumar Singh & Ors.** (supra) as also by the learned Division Bench of this Court in the case of **State of Bihar & Ors. vs. Anjani Kumar** (supra), I deem it fit and proper to direct the Chief Engineer, Flood Control and Water Management, Water Resources Department, Gopalganj to consider the case of the petitioner for grant of the benefits of ACP/MACP scheme from the due date, without being impeded by the fact that the petitioner has not passed the departmental accounts examination and pass appropriate orders within a period of four weeks of receipt/production of a copy of this order.

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

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27.03.2024
Transmission Date	N/A

