

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15607 of 2024

Suresh Prasad S/o Late Kamla Prasad R/o 205-A, Surya Laxmi Villa, Mahesh Nagar, Patliputra, P.S. -Patliputra, District-Patna

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Road Construction Department Vishweshwaria Bhawan, Govt. of Bihar, Patna
2. The Principal Secretary, Road Construction Department, Vishweshwaria Bhawan, Govt. of Bihar, Patna
3. The Secretary, Road Construction Department, Vishweshwaria Bhawan Govt. of Bihar, Patna.
4. The Engineer In Chief, Road Construction Department, Vishweshwaria Bhawan, Govt. of Bihar, Patna
5. The Chief Engineer, South Bihar Road Construction Department, Vishweshwaria Bhawan, Govt. of Bihar, Patna
6. The Superintending Engineer, Central Circle, Road Construction Department, Chajjubagh Patna
7. The Executive Engineer, Road Construction Department, Patna City Road Division, Gulzarbag Patna
8. The Accountant General, Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Raj Kumar, Advocate Mr.Sunil Kumar, Advocate
For the AG (Bihar)	:	Mrs.Ritika Rani, Advocate
For the Respondent/s	:	Government Advocate 13

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 12-11-2024 Heard Mr. Raj Kumar along with Mr. Sunil Kumar, learned counsels appearing on behalf of the petitioner; Mrs. Ritika Rani, learned counsel for the Accountant General (Bihar) and the learned GA No.13 for the State.

2. Petitioner has *inter alia* prayed for following reliefs in the paragraphs No.1 of the writ petition:-

“This is an application praying for issuance of appropriate writ/writs, order/orders, direction/directions to the respondents to grant benefits of 1st 2nd and 3rd ACP/MACP forthwith, payable from 10.01.2003, 10.01.2011 and



10.01.2021 respectively and the consequential benefits arising out of it, in the light of the Full Bench order/judgment passed by this Hon'ble Court in cWJC NO.18727 of 2017 and its analogous cases, which has not been given to the petitioner except 1st ACP that too by the order of this Hon'ble Court during the pendency of CWJC No.8133 of 2011, filed by the petitioner, despite his representations before concerned respondents."

3. Learned counsel appearing on behalf of the petitioner informs that the petitioner was appointed on the post of Drafts Man on 10.01.1991 and the services of the petitioner changed into Accounts Clerk on 16.10.1995 within Dumka Circle. The petitioner superannuated on 31.01.2024 from the post of Accounts Clerk. The petitioner has already been given 1st ACP on 29.08.2011, however, 2nd ACP and 3rd ACP/MACP is payable from 2011 and 2021 respectively but till date the same has not been given to him. However, petitioner seeks to file a detailed representation before the authority concerned in light of the law laid down by the Apex Court in the case of ***Amresh Kumar Singh & Ors. Vs. The State of Bihar & Ors.*** reported in ***2023 SCC OnLine SC 496*** and the recent judgment dated 28.06.2024 of the Hon'ble Full Bench of this Court passed in ***CWJC No. 18727 of 2017 (Kamlanand Thakur Vs. The State of Bihar)*** and other analogous matter.

4. Considering the aforesaid information given by the



petitioner, I find it proper to refer Rule 4 (5) of **Bihar State Employees Service Condition (Assured Career Progression Scheme) Rules, 2003** is reproduced hereinafter.

“(4) Eligibility and conditions

(5) The requirements and manner of grant of financial progression under the Scheme shall be the same which have been prescribed for regular promotion against vacancies under recruitment/ appointment Rules. If for any promotion passing of departmental examination or any other eligibility has been prescribed then the same would also be necessary condition for grant of benefit under the Scheme if such condition is prescribed under Rules/Circulars/Resolutions.”

5. The terms and conditions, as per Rule 4(5) of the 2003 Rules, is that the requirement for grant of financial progression would be the same as prescribed for grant of regular promotion under service rules/orders governing grant of regular promotion.

6. Considering the provision of the Scheme, the applicable Rule governing grant of regular promotion to the petitioner puts condition that an employee is mandatorily required to be adjudged fit to be promoted before grant of regular promotion i.e. in other words, his service should not be



unsatisfactory.

7. In view of the fact that the petitioner has claimed that he has been stagnated on the same post and seeks to file a detailed representation before the authority concerned, the authority concerned is required to call for the service particulars of the petitioner and verify, as to whether any disciplinary action or any penalty order has been passed against the petitioner and decide the grievance of the petitioner expeditiously, in light of the law laid down by the Apex Court in the case of **Amresh Kumar Singh (Supra)** and the Full Bench of this Court in the case of **Kamlanand Thakur (Supra)**.

8. It is, however, worth to be noted that ACP/MACP scheme is a financial progression given to an employee, which is time-bound scheme, as a result of stagnation of government servant on the same post.

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

(Purnendu Singh, J)

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