

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14083 of 2024

Sanjay Kumar S/o- Bhuvneshwar Sharma, Resident of Ashiyana Digha Road,
P.O.- Ashiyana Nagar, P.S.- Rajiv Nagar, Patna, Bihar- 800025.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Animal and Fisheries Resources Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, General Administration Department, Government of Bihar, Patna.
3. The Secretary, Animal and Fisheries Resources Department, Government of Bihar, Patna.
4. The Director, Animal Husbandry, Government of Bihar, Patna.
5. The Regional Director, Animal Husbandry, Purnea Division.
6. The District Magistrate, Purnea.
7. The District Animal Husbandry Officer, Purnea.
8. The Senior Treasury Officer, Purnea.
9. The Senior Treasury Officer, Collectorate Patna.
10. The Accountant General (A and E), Veer Chand Patel Path, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Aayush Abhishek, Advocate.
For the State	:	Mrs. Pushpanjali Sharma, AC to SC-20.
For AG Bihar	:	Mr. Bindhyachal Rai, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 19-12-2024 Heard Mr. Aayush Abhishek, learned counsel

 appearing on behalf of the petitioner; Mrs. Pushpanjali Sharma,

 learned AC to SC-20 for the State and Mr. Bindhyachal Rai,

 learned counsel for the Accountant General, Bihar.

2. Petitioner has *inter alia* prayed for following reliefs

in the paragraphs No.1 of the writ petition:-

“1. That the present Civil Writ
application is being filed for issuance of appropriate



writ/writs, direction/directions, order/orders and thereby for grant of following relief/s to the petitioner:-

(i) For issuance of direction to the respondents to grant the benefits of 3rd MACP which has become due to the petitioner since 22.05.2022 along with the consequential benefits.

(ii) For issuance of direction to the respondents for payment of penal interest at the rate of 9% per annum for delay in extending the benefits of ACP/MACP scheme to the petitioner.

(iii) For any other relief/reliefs for which the petitioner is found entitled to.”

3. Learned counsel appearing on behalf of the petitioner informs that the petitioner was appointed on 22.05.1992 as Assistant Poultry Marketing Officer and had retired on 30.06.2024, while he was working on the post of District Animal Husbandry Officer, Purnea. The petitioner became entitled for 3rd MACP on 22.05.2022 but till date the same has not been given to him. Petitioner claims that one similarly situated person, namely, Anil Kumar has already been extended the benefits of 3rd MACP. 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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