

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14224 of 2024

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Yadunath Sharma Son of Late Trilokinath Sharma Retired Panchayat Secretary, resident of Village- Kohra Mathiya, P.O.- B.T. Kohra Mathiya, P.S.- Parsa, District- Saran (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Panchaiyati Raj Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Panchaiyati Raj Department, Govt. of Bihar, Patna.
3. The District Magistrate, Saran (Chapra).
4. The District Panchaiyat Raj Officer, Saran at Chapra.
5. The Block Development Officer, Block- Dariyapur, District- Saran (Chapra).
6. The Principal Accountant General (A and E), Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Shailendra Kumar, Advocate
For the Respondent/s	:	Mr. Rajeev Shekhar, AC to GA-13
For the AG, Bihar	:	Mr. Arun Kumar Arun, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 20-09-2024 Heard Mr. Shailendra Kumar, learned counsels appearing on behalf of the petitioner; Mr. Rajeev Shekhar, learned AC to GA-13 for the State and Mr. Arun Kumar Arun, 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:-

“That this is an application for issuance of an appropriate writ/writs, order/orders, direction/directions for commanding the respondents to make payment of arrear amount after granting of 2nd M.A.C.P. to the petitioner which is due from



13.12.2016 on the pay scale Rs.9300-34800 grade pay 4600 and other consequential allowances in different heads including retiral dues with interest as given to the employees of Govt. of Bihar for which the petitioner is legally entitled.”

3. Learned counsel appearing on behalf of the petitioner informs that the petitioner was appointed on 13.12.1996 as Panchayat Secretary and had retired on 31.12.2016, while he was working on the post of Panchayat Secretary. The petitioner became entitled for 2nd MACP and in this regard he has filed an application on 05.01.2022 and on 02.04.2024 before the authority concerned, 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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