

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15807 of 2024

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Mahendra Kumar Jha S/o Late Bhuneshwar Jha, R/o Vill-Bhojalchak, P.S.-
Rajaun, Distt. Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
2. The Principal Secretary, Water Resources Department, Govt. of Bihar, Patna.
3. The Engineer in Chief cum Secretary, Water Resources Department, Govt. of Bihar, Patna.
4. The Chief Engineer, Water Resources Department, Bhagalpur, Distt.-Bhagalpur.
5. The Superintending Engineer, Ganga Pump Canal Circle, Bhagalpur, Distt.-Bhagalpur.
6. The Executive Engineer, Ganga Pump Canal Division No. 2, Shiv Narayan, Ur. Bhagalpur, Distt.-Bhagalpur.
7. The Accountant General, Bihar at Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Amresh Kumar Sinha, Advocate
For the State	:	Mr. Sarvesh Kumar, GP 24
For the AG, Bihar	:	Mr. Raj Nandan Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 17-10-2024 Heard Mr. Amresh Kumar Sinha, learned counsel appearing on behalf of the petitioner; Mr. Sarvesh Kumar learned GP 24 for the State and Mr. Raj Nandan Prasad, learned counsel for the AG, Bihar.

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

(I) To issue a writ CERTIORARI in nature setting aside the letter dt. 21/03/2022 and Speaking order as contained in letter no.1895 dt. 28/05/2015 the Chief Engineer, Water



Resources Department, Bhagalpur by which the claim of the petitioner for grant of Time Bond Promotion and A.C.P. has been rejected on ground that he has not cleared the Accounts Examination.

(ii) To issue a Writ(s) MANDAMUS in nature directing the respondents to grant Time bound promotion and A.C.P., w.e.f. dated of joining in work charge establishment and further to pay the consequential monetary benefits to the petitioner.

(iii) To any other relief(s) for which petitioners are entitled for in the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner informs that the petitioner was appointed on 25.11.1971 on the post of Work Inspection/Inspector in works establishment. The petitioner and other were granted First Time Bound Promotion vide order no.3735 dated 13.11.1987 with effect from 01.09.1983 and thereafter petitioner retired in the year 2003. However, after his retirement, vide letter no.1983 dated 21.06.2000, the Time Bound promotion which was given to the petitioner was cancelled on the ground that he had not passed the Accounts Examination. Thereafter, the petitioner approached this Court by filing CWJC No.20682 of 2011 which was allowed in favour of the petitioner vide order dated 10.01.2022 and the matter was remitted back to the respondents for passing the speaking order in accordance with law. Thereafter, the petitioner represented before the respondent



authorities and vide order dated 28.05.2015, the Chief Engineer, Water Resources Department, Bhagalpur rejected the claim of the petitioner on the same ground. 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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