

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14910 of 2023

1. Kalika Prasad Singh S/o - Late Jyoti Narayan Singh, Resident of - Surya Jyoti Bhawan, Airtel Tower, Vill. - Shastri Nagar, Gaya, P.O. - Gaya, P.S. - Rampur, District- Gaya, Bihar, Pin - 823001.
2. Rabindra Prasad Mandal, Son of Late Sukhdeo Mandal, Resident of Village - Ramnagar, P.O. - Mamalakha, P.S. - Sabour, Dist - Bhagalpur.
3. Mithilesh Kumar Singh, Son of Parikshan Singh, resident of Village - Chakesho, P.O. and P.S. - Mahnar, Dist. - Vaishali.
4. Shree Krishna Kumar Tiwari, Son of Late Hriday Narayan Tiwari, resident of - Village- Kashipur Dekura, P.S. - Charpokhari, District - Bhojpur.
5. Kanhaiya Lal Ojha, reisdent of Village - Karja, P.O. Umraon Ganj, P.S. - Bihiya, Dist. - Bhojpur.
6. Amar Nath Yadav, Son of Late Ram Das Gop, Resident of Village- English, P.S.- Sabour, Dist - Bhagalpur.
7. Ratan Kumar Chaudhary, Resident of Village - Bahadur, P.O. - Chausa, P.S. - Buxar (Muffassil), Dist. - Buxar, Pin - 802114.
8. Hira Maharaj, Son of Late Teknarayan Maharaj, resident of Village - Gehuni, P.S. Bhagwanpur, Dist - Begusarai.
9. Saroj Kumar Rai, Son of Late Krishna Kumar Rai, Resident of Village - Bhojpur, P.S. - Tarabari, Dist. - Araria.
10. Arjun Prasad, Son of - Late Bishnudayal Thakur, residence of Village - Samsara, P.O. - Sadisopur, P.S. - Bihta, District - Patna, Pin - 801111.
11. Poonam Thakur, Wife of Late Baidyanath Thakur, Resident of Village - Devkuli Dham, P.S. - Biroul, District - Darbhanga, Pin - 848209.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Home Department, Government of Bihar, Patna.
2. The Inspector General, Prisons and Correctional Services, Bihar, Patna.
3. The Jail Superintendent, Katihar Jail, Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Vasant Vikas, Adv.
For the Respondent/s : Mr. Dhurendra Kumar, AC to GP-5

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 28-03-2024



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

“1(i). For issuance of appropriate writ/writs, order/orders, direction/directions for quashing or setting aside the order dated vide Memo No. 4542 dated 04.08.2015 issued by the Director, Jail Directorate, Bihar, Patna whereby and whereunder the grant of third MACP with effect from 01.01.2009 has been rejected by the departmental screening committee on 31.07.2015 on the ground that the petitioners have not passed the departmental account examination.

(ii). For issuance of appropriate writ/writs, order/orders direction/directions for commanding and directing the concerned authority for consideration and grant of MACP in view of relevant provisions under scheme introduced by the notification bearing Notification No. 4685 F (2) dated 25.06.2003, and Resolution No. 7566 dated 14.07.2010 issued by the Finance Department, Govt. of Bihar.”

2. At the outset, the learned counsel for the petitioners submits that the only ground, on which the benefits of 3rd MACP has been denied to the petitioners, is non-passing of the departmental accounts examination.

3. The learned counsel for the petitioners has relied on a judgment dated 19.12.2022, passed in the case of *Prem Chand*



Prasad Singh vs. The Stae of Bihar & Ors. (CWJC No. 20789 of 2014), to contend that in a similar case, as the present one, the writ petitioner of the said case was directed to be granted the benefits of ACP/MACP in light of the fact that passing of the departmental accounts examination is not a condition precedent for grant of financial progression and thereafter, vide order dated 18.7.2023, the writ petitioner of the said case, namely, Prem Chand Prasad Singh, has also been granted the benefits of ACP / MACP scheme.

4. Per contra, though the learned counsel for the Respondent -State has opposed the present writ petition, however, he has not denied the fact that the present case is covered by the law laid down by a coordinate Bench of this Court in the case of Prem Chand Prasad Singh (*supra*).

5. This Court finds that the law regarding the issue under consideration is no longer *res integra*, inasmuch as a learned Division Bench of this Court in the case of the ***State of Bihar & Ors. vs. Ram Subhag Singh*** (LPA No. 4 of 2021), reported in ***2022 (2) PLJR 773***, by a judgment dated 11.5.2022, has held that non-passing of departmental examination shall not be an impediment to grant of the benefits of time bound promotions / ACP /MACP. In fact, this aspect of the matter has also been



decided by a judgment, rendered by this Hon'ble Court in the case of *State of Bihar & Ors. vs. Anjani Kumar*, reported in **2013 (2) PLJR 643**, which has also been upheld by the Hon'ble Apex Court, by an order dated 10.3.2014, passed in SLP (C) No. 19182 of 2013. In this regard, reference be also had to a judgment rendered by the learned Division Bench of this Court in the case of *State of Bihar & Ors. vs. Smt. Jivachi Devi*, reported in **2020 (2) BLJ 471**, which has also been upheld by the Hon'ble Apex Court, in view of the dismissal of the Special Leave Petition filed by the respondent-State. It would be equally gainful to refer to a judgment rendered by the learned Division Bench of this Court in the case of *The State of Bihar & Ors. vs. Shri Krishna Singh & Anr.* (L.P.A. No. 372 of 2019). In a recent judgement, rendered by the Hon'ble Apex Court in the case of *Amresh Kumar Singh & Ors. vs. the State of Bihar & Ors.*, reported in **2023 (2) PLJR (SC) 423**, it has been held that extending the benefit of ACP, which is purely and simply in the nature of grant of monetary benefit without actually effectuating any promotion to any higher post, cannot be withheld for not possessing additional educational qualification, hence for the purposes of granting benefits of ACP/MACP, passing of any exam is not necessary.



6. Having heard the learned counsel for the parties and for the foregoing reasons, this Court finds that there is no iota of doubt that the petitioners have to be granted the benefits of ACP / MACP scheme de hors the fact that they have not passed the departmental accounts examination. In such view of the matter, the impugned order, contained in memo dated 4.8.2015, issued by the Director, Jail Directorate, Bihar, Patna, whereby and whereunder the petitioners have been denied the benefits of 3rd MACP on the ground that they have not passed the departmental accounts examination, being perverse and contrary to the law laid down by this Court as well as by the Hon’ble Apex Court, is quashed, qua the petitioners herein.
7. Consequently, the Respondents are directed to grant the benefits of the ACP / MACP scheme to the petitioners with effect from the due date without being impeded by the fact that the petitioners have not passed the departmental accounts examination.
8. The writ petition stands allowed.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	2.4.2024
Transmission Date	NA

