**IN THE HIGH COURT OF JUDICATURE AT PATNA**
**Civil Writ Jurisdiction Case No.15870 of 2023**

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Shabnam Ara Wife of Jamil Hassan, Resident of Mohalla- Station Road, Baniya Pokhar Opposite Eqbal Manzil, Police Station- Gaya Sadar, District- Gaya.

... ... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Minor Irrigation Department , Government of Bihar, Patna.
2. The Principal Secretary, Minor Irrigation Department , Government of Bihar, Patna.
3. The Chief Engineer, Minor Water Resource Department, Patna.
4. The Superintending Engineer, Minor Irrigation Circle, Gaya.

... ... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Ashok Kumar Karna, Advocate

For the Respondent/s : Mr.Sita Ram Yadav (Gp16)

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**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH**

ORAL ORDER

2 08-04-2024 1. The present writ petition has been filed seeking the following relief(s):-

> *"1(I) Issuance of writ in the nature of mandamus for a direction to the Respondent authority to grant the benefits of 1st ACP w.e.f. 27.04.2004 and the benefits 2nd MACP w.e.f. 27.04.2012 and the benefits of 3rd MACP w.e.f. 27.04.2022 to the Petitioner along with consequential benefits like revision of pension and other retiral benefits as the Petitioner became eligible for abovementioned ACP/MACP benefits in the light of judgment passed in CWJC No.11595/2018 (Rajesh Kumar Sharma vs the State of Bihar and others) and*

*the State of Bihar & Ors. v. Shri Krishna Singh & Anr. (reported in 2022 (2) PLJR 773) and the State of Bihar & Ors. v. Smt. Jivachi Devi (reported in 2020 (2) BLJ 471) by which the this Hon'ble Court settled the law that the passing of departmental account examination is not essential to get the benefits of ACP/MACP.*

*(II) Issuance of further direction to the Respondent authority to modify the order contained in Letter No.519 dated 20.03.2017 issued by the Chief Engineer, Minor Water Resource Department, Patna and to grant of benefits of 1st ACP from 27.04.2004 as the Respondent authority granted the benefits of 1st ACP w.e.f. 15.03.2014 without considering that the passing of departmental examination is not essential to get the benefits of ACP/MACP.*

*(III) Issuance of further direction to the Respondent authority to revise the pension and other post retiral dues after grant of benefits of 1st, 2nd & 3rd ACP/MACP with effect from due date as the Petitioner became eligible for the said benefits*

*(IV) Issuance of further direction to the Respondent authority to grant the similar benefits to the Petitioner as granted to the similarly situated persons in the light of Bihar State Litigation Policy as well as in the light of judgment passed in the case of 2008 (4) PLJR 125 and 2011 (3) PLJR 588 & ((2006) 2 SCC*

*747) by the Hon'ble Courts."*

2. At the outset, the learned counsel for the petitioner submits that the respondents have stated in the counter affidavit, filed in the present case that since the petitioner has not passed the departmental accounts examination, he is not entitled to get the benefits of ACP/MACP scheme from the actual due date and further it is submitted that the respondents have also stated that since the petitioner has been exempted from passing the department accounts exam w.e.f. 15.03.2014, the benefits of ACP/MACP scheme would be calculated taking into account the said date. It is submitted that the law in this regard is no longer res integra inasmuch as this Court in a judgment dated 23.01.2024, passed in CWJC No.12521 of 2022 has held that non passing of the departmental accounts examination cannot be an impediment to grant of the benefits of ACP/MACP scheme. Reference in this connection has been made to the judgment rendered by the Hon'ble Apex Court in the case of ***State of Bihar and Ors. Vs. Anjani Kumar***, reported in ***2013(2) PLJR 643***, as also the one rendered in the case of ***State of Bihar and Ors. Vs. Smt. Jivachi Devi***, reported in ***2020(2) BLJ 471***, passed by the Hon'ble Division Bench of this Court, both of which have been upheld by the Hon'ble Apex Court. The learned counsel for the petitioner has also referred to a

judgment, rendered by the Hon’ble Apex Court in the case of ***Amresh Kumar Singh and Ors. Vs. The State of Bihar and Ors.***, reported in ***2023(2) PLJR (SC) 423,*** to submit that even the Hon’ble Apex Court has held that non-passing of the departmental examination cannot be an impediment to grant of the benefits of ACP/MACP scheme.

3. Per contra, though the learned counsel for the respondent-State has submitted that since the petitioner had not passed the Departmental Accounts Examination in time and was exempted from the same w.e.f 15.03.2014, the respondents have taken a decision to grant benefits of ACP/MACP scheme by taking the said date to be the relevant date, however, the learned counsel for the respondent-State has not been able to controvert the law laid down by the learned Division Bench of this Court as also the Hon’ble Apex Court, as aforesaid.

4. Having regard to the facts and circumstances of the case, I deem it fit and proper to direct the Chief Engineer, Minor Water Resource Department, Patna i.e. the respondent no.3 to consider the case of the petitioner for grant of the benefits of ACP/MACP scheme w.e.f. the due date without being impeded by the fact that the petitioner had not passed the Departmental Accounts Examination in time and pass a

reasoned and a speaking order, within a period of four weeks of receipt/production of a copy of this order.

5. The writ petition stands disposed off on the aforesaid terms.

**(Mohit Kumar Shah, J)**

Saurav/-

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