

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15488 of 2024

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Ramesh Chandra Prasad Son of late Jagannath Prasad, Resident at Purani Gudari Mahavir Chawk, Bettiah, P.O and P.S- Bettiah Town, District-West Champaran, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Animal Husbandry and Fishery Resources Department, Government of Bihar, Patna.
2. Director, Animal Husbandry Department, Government of Bihar, Patna.
3. District Animal Husbandry Officer, West Champaran, Bettiah, District- West Champaran, (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raju Giri, Advocate
		Mr. Harsh Vardhan, Advocate
For the Respondent/s	:	Mr. Rajeev Shekhar, AC to GA-13

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 07-10-2024 Heard Mr. Raju Giri, learned counsel appearing on behalf of the petitioner and Mr. Rajeev Shekhar, learned AC to GA-13 for the respondents.

2. The petitioner in paragraph no. 1 of the present writ petition has sought *inter alia* following relief(s), which is reproduced hereinafter:

"i. To issue an appropriate writ / order / direction, in the nature of mandamus commanding the respondents to grant benefit of their MACP (Modified Assured Career Progression Scheme) to the petitioner w.e.f. 01.01.2019 with all consequential benefits.

ii. To any other relief or reliefs for which the Petitioner is entitled to."

3. Learned counsel appearing on behalf of the petitioner informs that the petitioner was appointed on



01.05.1986 as Class-IV employee in the Animal Husbandry Department, Government of Bihar, and superannuated from service on 31.12.2020, while he was working on the post of Office Attendant, Veterinary Hospital, Chameniya, West Champaran. The benefit of 3rd M.A.C.P. has not been given to the petitioner w.e.f. 01.01.2019. 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*, which is later on clarified by in the recent judgment dated 28.06.2024 passed by the Hon'ble Full Bench of this Court 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**, which 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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