

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15907 of 2024

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Mohan Dhari @ Mohan Dhadhi s/o late Jaldhari Dhari @ Jaldhari Dhadhi
Vill. Mafo, P.S. Mehus, Dist. Sheikhpura

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Home
2. The secretary, Department of Home, Bihar.
3. The District Magistrate, Sheikhpura.
4. Superintendent of police, Sheikhpura.
5. Aanchal Adhikari, Ghat Kusumbha, P.S.- Ghat Kusumbha, dist. Sheikhpura.
6. Accountant General, Bihar, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Devendra Prasad Singh, Advocate
For the State	:	Mr. Samir Kumar, AC to GP 20
For the AG, Bihar	:	Mr. Binod Kumar Labh, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 17-10-2024 Heard Mr. Devendra Prasad Singh, learned counsel

appearing on behalf of the petitioner; Mr. Samir Kumar, learned

AC to GP 20 for the State and Mr. Binod Kumar Labh, 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)That, the present writ application is directed
for issuance of an appropriate writ/writs,
direction/directions for the issuance of mandamus for
directing the respondents especially respondents no. 3 & 5
to give promotional benefit i.e. the first ACP and second
ACP/MACP as per his entitlement and accordingly to give*



the monetary benefit.

II. Further direction be issued to give the monetary benefit along with interest till the date of payment.

III. And, further direction be issued to the concerned authority to revise the pension of the petitioner and pay the same with arrear along with interest.

Iv. And, any other relief be granted to the petitioner in accordance with law.”

3. Learned counsel appearing on behalf of the petitioner informs that the petitioner was appointed on 01.01.1990 and was posted under Circle Office, Sheikhpura and superannuated on 30.06.2015 from the post of Chowkidar. He further submitted that petitioner is entitled for first ACP since 01.01.2002 and likewise he is entitled for the benefit of second ACP/MACP from 01.01.2010 but the same has not been given to the petitioner. 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)

Sanjay/-

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