

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16510 of 2024

=====

Siya Prasad Yadav Son of Dasai Yadav, Resident of Village-Pirojgarh, P.S-
Goghardiha, District- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Additional Chief Secretary-cum-Principal Secretary, Rural Development Department, Government of Bihar, Patna.
3. The District Magistrate, Madhubani, District-Madhubani.
4. The District Panchayati Raj Officer, Madhubani.
5. The Block Development Officer, Madhepur, District- Madhubani.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr.Binodanand Mishra, Advocate Mr. Gunjan Kumar Jha, Advocate Mr. Sandeep Kumar, Advocate
For the Respondent/s	:	Mr. B. B. Pd., AC to SC 13

=====

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 12-11-2024 Heard Mr. Binodanand Mishra along with Mr.

Gunjan Kumar Jha and Mr. Sandeep Kumar, learned counsels
appearing on behalf of the petitioner and Mr. B. B. Pd., learned
AC to SC 13 for the State.

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

*“(I) For issuance of an order, direction
and writ including writ in the nature of mandamus,
commanding the respondents to consider the case of
the petitioner for grant of first and second ACP.*

*(ii) For issuance of an order, direction
and writ including writ in the nature of mandamus,
commanding the respondents to make payment of
unpaid arrears of difference of salary on account of
grant of first and second ACP benefits to the
petitioner.*



(iii) For issuance of an order, direction and writ including writ in the nature of mandamus, commanding the respondents to make payment of interest on the aforesaid unpaid amount of arrears of difference of salary on account of grant of first and second ACP at the market rate to the petitioner.

(iv) For issuance of an order, direction and writ including writ in the nature of mandamus, commanding the respondents to make payment of unpaid arrears of salary of the period February 2002 to February 2020 amounting to Rs.7,30,148/- (Rupees Seven Lakh Thirty Thousand and One Hundred Forty Eight Only).

(v) For issuance of an order, direction and writ including writ in the nature of mandamus, commanding the respondents to make payment of interest on the aforesaid unpaid arrears of salary for the period February 2002 to February 2020.

(vi) For issuance of an order, direction and writ including writ in the nature of mandamus, commanding the respondents to make payment of group insurance amount payable to the petitioner with statutory interest.

(viii) For issuance an appropriate direction, holding that petitioner is entitled for grant of first and second ACP.

(ix) For issuance of an appropriate direction, holding that the petitioner is entitled for group insurance amount with statutory interest.

(x) For any other relief (s) to which the petitioner may be found entitled in the facts and circumstances of the present case.”

3. Learned counsel appearing on behalf of the petitioner informs that in light of instructions of the Rural Development Department contained in letter no.5448 dated 04.06.1989, the District Selection Committee, in its meeting dated 26.08.1997, selected 63 *Dalpatis* including the petitioner for appointment to the post of Panchayat Secretary. Thereafter, they have been given training and after completion of training, they joined in the district headquarter. Petitioner gave his



joining on 04.12.1997 and he passed his Hindi Noting and Drafting Examination on 19.04.1998. The petitioner after completion of nearly 24 years of service, superannuated on 31.08.2022. The petitioner became entitled for 1st ACP with effect from 01.01.2009 and 2nd ACP with effect from 04.12.2018 but till date the same has not been given to him. 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/-

U			
---	--	--	--

