

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15945 of 2024

Arbind Kumar Son of Shiv Narayan Yadav, resident of Sant Kabir Nagar,
Court Station, P.S.-K. Hat, Purnea, District Purnea 854301.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna
3. The Director, Secondary Education, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Purnea Division, Purnea.
5. The District Education Officer, Kishanganj.
6. The District Programme Officer, Establishment, Kishanganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rakesh Prabhat, Advocate
For the Respondent/s : Mr. Government Pleader-23

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT

Date : 29-10-2024

Heard learned counsel for the petitioner and learned AC
to GP-23.

2. Learned counsel for the petitioner submits that the instant writ application has been filed seeking quashing of the order contained in Memo No. 104 dated 31.01.2023 (Annexure-P/2) issued by the RDDE, Purnea Division, Purnea to the extent whereby the 1st MACP has been granted to the petitioner w.e.f. 25.06.2021 i.e. the date of exemption from passing the departmental examination was granted to the petitioner vide letter no. 1270 dated 17.11.2022 (Annexure-P/1). The petitioner further seeks a direction upon the respondent no. 3 i.e. the RDDE, Purnea



Division, Purnea to grant the petitioner 1st and 2nd MACP w.e.f. 27.12.2009 and 27.12.2019 respectively in the light of various judgments including Full Bench Judgment of this Hon'ble Court whereby it has been decided that the passing of the departmental examination is not a condition precedent for grant of ACP and MACP, further to treat the petitioner in a manner similar to Mala Devi who also like the petitioner was granted MACP from the date of exemption from passing of the departmental examination but the same was quashed vide order dated 22.01.2024 passed in C.W.J.C. No. 3861 of 2023 (Annexure-P/3) in light of Clause 4(c) of the Bihar Litigation Policy, 2011.

3. Learned counsel for the petitioner submits that petitioner was appointed as a Clerk on 27.12.1999 in the office of the District Superintendent of Education, Purnea. Presently, the petitioner is serving as Head Clerk in the office of the District Education Officer, Kishanganj. It is further submitted that petitioner became eligible for 1st MACP on 27.12.2009 and for the 2nd MACP on 27.12.2019 but then he was not granted the benefit of the MACP on the ground that he had not passed the departmental examination. It is next submitted that petitioner vide letter no. 1270 dated 17.11.2022 (Annexure-P/1) issued by the RDDE, Purnea Division, Purnea was exempted from passing the



departmental examination w.e.f. 25.06.2021, as such, the petitioner was granted the benefit of 1st MACP vide letter no. 104 dated 31.01.2023 issued by the RDDE, Purnea Division, Purnea w.e.f. 25.06.2021 i.e. the date of exemption from passing the departmental examination.

4. It is next submitted that Mala Devi, whose case is akin to the case of the petitioner, was also granted MACP from the date she was granted exemption from passing the departmental examination and not from the date when she became eligible, as such, she moved before this Court seeking quashing of the order dated 31.08.2018 by which she was granted the 1st MACP by filing C.W.J.C. No. 3861 of 2023. It is submitted that a learned Coordinate Bench of this Court after hearing the learned counsel for the parties came to a considered conclusion that grant of ACP of Mala Devi from the date of exemption of passing the departmental examination is erroneous and is not sustainable in the eye of law. It is thus submitted that the case of the petitioner is squarely covered by the order dated 22.01.2024 in C.W.J.C. No. 3861 of 2023.

5. Learned counsel appearing on behalf of the State is not in a position to rebut the submission of the learned counsel appearing on behalf of the petitioner.



6. Considering the submission made by the learned counsel appearing on behalf of the petitioner, the order contained in Memo No. 104 dated 31.01.2023 (Annexure-P/2) issued by the RDDE, Purnea Division, Purnea, to the extent it concerns the petitioner whereby 1st MACP was granted w.e.f. 25.06.2021 i.e. the date of exemption from passing the departmental examination is hereby quashed and the petitioner is directed to file a representation before the authority competent to consider his case in light of the order dated 22.01.2024 in C.W.J.C. No. 3861 of 2023.

7. It is made clear that if the case of the petitioner is covered by the order dated 22.01.2024 in C.W.J.C. No. 3861 of 2023, in that event, the petitioner shall also be granted the same benefit but if the authorities for any reason comes to a conclusion that case of the petitioner is not covered by the order dated 22.01.2024 in C.W.J.C. No. 3861 of 2023, in that event, the representation of the petitioner shall be disposed of by a reasoned order.

(Satyavrat Verma, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
Uploading Date	29.10.2024
Transmission Date	

