

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16516 of 2024

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Somani Devi Wife of Ganeshi Ram, Resident of Village-Kamepatti, Ward No. 2, Belahi, P.S.-Ladania, 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 Divisional Commissioner, Darbhanga, District-Darbhangha.
4. The District Magistrate, Madhubani, District-Madhubani.
5. The District Panchayat Raj Officer, Madhubani.
6. The Block Development Officer, Madhepur, District-Madhubani.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binodanand Mishra, Advocate
For the Respondent/s : Mr.Ramadhar Singh, Government Pleader 25

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 13-11-2024 Heard Mr. Binodanand Mishra, learned counsel

 appearing on behalf of the petitioner and Mr. Ramadhar Singh,

 learned GP 25 for the State.

2. The petitioner in paragraph no. 1 of the present writ

petition has sought *inter alia* following relief(s), which is

reproduced hereinafter:-

(i) For issuance of an order, direction or writ including writ in the nature of mandamus commanding the respondents to consider the case of the husband of the petitioner for grant of ACP and MACP benefits.

(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 second ACP and MACP benefits to the husband of the petitioner.

(iii) For issuance of an order, direction or 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 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 to the petitioner for the period February, 2002, February, 2013, February 2015 and May, 2015.

(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, February 2013, February, 2015 and May, 2015.

(vi) For issuance of an appropriate declaration holding that husband of the petitioner was entitled for grant of ACP and MACP benefits.

(vii) For issuance of an appropriate declaration holding that petitioner is entitled for payment of unpaid arrears of salary of the husband of the petitioner.

(viii) For issuance of an order, direction and writ including writ in the nature of mandamus, commanding the respondents to make necessary revision in the pension and other retirement benefits of the petitioner on account of grant of ACP benefits.

(ix) 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 the husband of the petitioner was appointed as Panchayat Sewak vide memo no.496 dated 18.10.1979 issued by the District Panchayati Raj Officer,



Madhubani. The husband of the petitioner after completion of training joined in the Laukhi Block on 26.01.1980. The husband of the petitioner after completion of nearly 38 years of service, superannuated on 28.02.2018. The petitioner's husband became entitled for 1st ACP with effect from 26.01.1990 and 2nd ACP with effect from 26.01.2000 and MACP with effect from 26.01.2010 but till date the same has not been given to the husband of 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 her husband 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's husband and verify, as to whether any disciplinary action or any penalty order has been passed against him 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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