

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17765 of 2024

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1. Vijay Prasad Son of Sri Dev Prasad Yadav Resident of Village- Lahladpur, Police Station- Rani Talab, District- Patna.
 2. Jwala Prasad Singh, Son of Sri Shyamjee Singh Resident of Village- Laharpa, Police Station- Agaain Grahani, District- Bhojpur Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Water Resource Department, Government of Bihar, Patna.
2. The Principal Secretary, Water Resource Department, Government of Bihar, Patna.
3. The Chief Engineer, Irrigation Creation, Water Resource Department, Dehri.
4. The Executive Engineer, Sone Canal Division, Ara.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. R. K. Singh, Advocate
For the Respondent/s : Mrs. Archana Meenakshee, GP 6

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 25-11-2024 Heard Mr. R. K. Singh, learned counsel appearing on behalf of the petitioners and Mrs. Archana Meenakshee, learned GP 6 for the State.

2. Petitioners have *inter alia* prayed for following reliefs in the paragraph No.1 of the writ petition:-

“I. Issuance of writ in the nature of mandamus for a direction to the Respondent authority to grant the benefits of 1st & 2nd MACP w.e.f. 01.01.2009 & 07.11.2018 respectively in the pay scale of Rs.5000- 8000 (Revised Pay scale PB-2-9300-34800 Grade pay 4200) and Pay scale PB-2-9300-34800 Grade pay 4800 respectively to the Petitioner No.1 along with consequential monetary



benefits in the light of judgment of Full bench of this Hon'ble Court passed in the case of Kamod Narayan Kumar @ Kumud Narayan Kumar vs the State of Bihar and other (C.W.J.C. No. 12521/2022) and the judgment passed by the Hon'ble Supreme Court in the case of Amresh Kumar Singh & Ors. Vs. The State of Bihar & Ors.: 2023 (2) PLJR (SC) 423 by which the Hon'ble Court settled the law that passing of departmental examination is not essential to get the benefits of ACP/MACP.

II. Issuance of further direction to the Respondent authority to grant the benefits of the benefits of 1st & 2nd MACP w.e.f. 09.03.2010 & 09.03.2020 respectively in the pay scale of Rs.5000-8000 (Revised Pay scale PB-2-9300- 34800 Grade pay 4200) and Pay scale PB-2-9300-34800 Grade pay 4800 respectively to the Petitioner No.2 along with consequential monetary benefits in the light of judgment of Full bench of this Hon'ble Court passed in the case of Kamod Narayan Kumar @ Kumud Narayan Kumar vs the State of Bihar and other (C.W.J.C. No. 12521/2022) and the judgment passed by the Hon'ble Supreme Court in the case of Amresh Kumar Singh & Ors. Vs. The State of Bihar & Ors.: 2023 (2) PLJR (SC) 423 by which the Hon'ble Court settled the law that passing of departmental examination is not essential to get the benefits of ACP/MACP.

III. Issuance of further direction to the Respondent authority to modify the order contained in Letter No.2410 dated 24.08.2015 issued by the Chief Engineer, Irrigation Creation, Water Resource Department, Dehri by which the benefits of 1st MACP granted to the Petitioner No. I w.e.f. 19.10.2014 and the Petitioner No.1 also prays for a



direction to the Respondent authority to shift the date of grant of benefits of 1st MACP from 19.10.2014 to 01.01.2009 as the Respondent authority granted the benefits of 1st MACP w.e.f. 19.10.2014 to the Petitioner No.1 without considering that the passing of departmental examination is not essential to get the benefits of ACP/MACP.

IV. Issuance of further direction to the Respondent authority to modify the order contained in Letter No.2410 dated 24.08.2015 issued by the Chief Engineer, Irrigation Creation, Water Resource Department, Dehri by which the benefits of 1st ACP granted to the Petitioner No. 2 w.e.f. 19.10.2014 and the Petitioner No.2 also prays for a direction to the Respondent authority to shift the date of grant of benefits of 1st MACP from 19.10.2014 to 09.03.2010 as the Respondent authority granted the benefits of 1st MACP w.e.f. 19.10.2014 to the Petitioner No. 2 without considering that the passing of departmental examination is not essential to get the benefits of ACP/MACP.

V. Issuance of further direction to the Respondent authority to grant the similar benefits to the Petitioners as granted to the similarly situated persons in the light of Bihar State Litigation Policy as well as in the light of judgment passed in the case of 2008 (4) PLJR 125 and 2011 (3) PLJR 588 & ((2006) 2 SCC 747) by the Hon'ble Courts.

3. Petitioners are aggrieved by non-consideration of the detailed representation filed on their behalf in light of Clause 4 C (1) of the Bihar State Litigation Policy, 2011 and the



judgment passed by the Apex Court in ***S.L.P. No. 8219-8226 of 2019 (Amresh Kumar Singh & Ors. ETC. vs. The State of Bihar & Ors. ETC.)***, as well as, the government notification complied with the law laid down by the Apex Court as contained in Letter No. 3A-Muka.-136/2019 dated 28.02.2024. The authority concerned for the reason best known to him/her, is sitting tight over the representation of the petitioner.

4. Learned counsel appearing on behalf of the State informs that the matter can well be considered by the Additional Chief Secretary, Water Resource Department, Government of Bihar, Patna, in consultation with General Administration Department/Finance Department in light of the law laid down by the Apex Court in case of ***Amresh Kumar Singh (Supra)*** and in light of Clause 4 C (1) of the Bihar State Litigation Policy, 2011 for considering to grant relief as prayed for in the present writ petition to the petitioners.

5. Considering the rival submissions made on behalf of the parties, as well as, the admitted fact that the case of the petitioners is covered by the judgment passed by the Apex Court in case of ***Amresh Kumar Singh (Supra)***, the petitioners are directed to file fresh detailed representation before the Additional Chief Secretary, Water Resource Department,



Government of Bihar.

6. The Additional Chief Secretary, Water Resource Department/Finance Department, Government of Bihar is directed to call for the service particulars of the petitioners and take a conscious decision in respect of the relief as prayed for in the present writ petition so that the petitioners must not be discriminated for having not their case being considered for a long period of time in spite of the specific legislation of the State Government in respect of the Bihar Litigation Policy, 2011 for disposal of such matters, which require no further litigation.

7. The Additional Chief Secretary, Water Resource Department, Government of Bihar, in case, finds that any document is required from the petitioners, the petitioners should be given due opportunity to provide the same and, in case, he finds that the case of the petitioners is not similar to the other employees, in whose cases, the Hon'ble Supreme Court has laid down the law in case of *Amresh Kumar Singh (Supra)*, then, after providing due opportunity of hearing to the petitioners, a conscious decision is required to be taken by him in accordance with law giving reason, as to why, the case of the petitioners is not covered by the *Amresh Kumar Singh (Supra)* and don't required to be considered in light of Bihar Litigation Policy,



2011.

8. With above observations/directions, the present writ
petition is disposed of.

(Purnendu Singh, J)

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