

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.230 of 2024

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1. Jainandan Singh Son of Gajendra Narayan Singh Resident of Ward No. 6, Dighi Kala, Purvi Block Colony, P.S. Hajipur Sadar, District- Vaishali.
 2. Rajendra Prasad Singh, Son of Thakur Ram Nihora Singh Resident of Village Vasudeopur Chauputa, P.O.- Rajauli, Hajipur, P.S. Hazipur Sadar, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
2. The Chief Secretary, Govt. of Bihar, Old Secretariat, Patna.
3. The Addl. Chief Secretary, Department of Agriculture, Govt. of Bihar, New Secretariat, Patna.
4. The Director, Agriculture, Govt. of Bihar, Patna.
5. The Joint Director, Agriculture Plant Protection, Govt. of Bihar, Patna.
6. The Asst. Director, Agriculture Plant Protection, Govt. of Bihar, Patna.
7. The Empowered Committee under Bihar Litigation Policy, 2011 through its Member Secretary.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Verma, Advocate.
For the Respondent/s : Smt. Anuradha Singh, SC-21.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 25-11-2024 Heard learned counsel appearing on behalf of the

petitioners and learned counsel for the State.

2. The petitioners in paragraph no. 1 of the present writ petition have sought, *inter alia*, following relief(s), which are reproduced hereinafter:-

“That this is an application praying for issuance of an appropriate writ, order or direction for commanding the respondents to finalize and decide the claim of the petitioners for grant of ACP benefits to the petitioners in the pay scale of Rs. 6500-10500/- as admissible to the in the next higher cadre post of junior plant protection officer with effecting modification in the



order sanctioning/granting 2nd ACP benefits in the pay-scale of 4500-7000/- and accordingly to put the petitioners in the Pay Band-2 i.e. in pay structure of 9300-34800+4800 w.e.f. 1.2006 and in reckoning the said admissible pay- scale, the petitioners be further granted MACP (3rd ACP) benefits in pay Band-2 in pay structure 9300-34800+5400 as on completion of 30 years of service by these petitioners inter alia, the following reliefs :-

i) The respondents be directed to grant ACP benefits to the petitioners as per his entitlement in the next higher cadre of post in the pay scale of 6500-10,500 allowed for the post of Plant Protection Officer and further for grant of higher pay scale after grant of 3rd ACP benefits in the grade pay of 5,400 and so other consequential benefits as allowed to the similarly placed employees.

ii) Respondents be directed to act upon the petitioners' representations/applications filed under guiding command of the Bihar State Litigation Policy, 2011 and to allow the benefits as sought for by the petitioners in the application submitted by the petitioners.

iii) Respondents' inaction and casual approach in dealing with the representations filed under the provisions of Bihar State Litigation Policy, 2011 in ignorance of the Hon'ble High Court's command issued to all concerned to act promptly, be highly deprecated and in considering the inaction aforesaid, to do justice with the petitioners with settling the petitioners' claim.

iv) The respondents be directed to grant all the consequential benefits for which they are legally entitled to.

v) Any other relief or reliefs be granted to the petitioners for which they are entitled to in the facts and circumstances of the case."

3. Learned counsel appearing on behalf of the petitioners informs that vide order dated 20.10.2020 contained in Memo No. 677, the authorities have denied the grant of ACP/MACP to the petitioners. However, for redressal of their grievance as prayed for in Para-1 of the writ petition, the petitioners seek 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 Sinha & 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 petitioners, I find it proper to refer Rule 4 (5) of **Bihar State Employees Service Condition (Assured Career Progression Scheme) Rules, 2003**, which 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 petitioners 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 petitioners have claimed that they have been stagnated on the same post and seek to file a detailed representation before the authority concerned, the authority concerned is required to call for the service particulars of the petitioners and verify, as to whether any disciplinary action or any penalty order has been passed against the petitioners and decide the grievance of the petitioners expeditiously, in light of the law laid down by the Apex Court in the case of **Amresh Kumar Sinha (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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