

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.278 of 2024

Manju Devi W/o Late Ramanand Jha, resident of Village and P.O.-Kharahara,
P.S.-Barahat, District-Banka.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Water Resources Department, Bihar, Patna.
2. The Commissioner, Water Resources Department, Sichai Bhawan, Patna.
3. The Under Secretary, Water Resources Department, Sichai Bhawan, Patna.
4. The Chief Engineer, Water Resources Department, Dehri on Sone, District-Rohtas.
5. The Secretary Technical, Chief Engineer s Office, Water Resources Department, Dihari.
6. The Superintending Engineer, Irrigation Circle, Bhabhua.
7. The Executive Engineer, Ganga Pump Canal Division, Chausa.
8. The District Magistrate, Rohtas.
9. The District Magistrate, Buxar.
10. The Accountant General Bihar, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ranjeet Choubey, Advocate
For the State	:	Mr. Nadim Seraj, GP-5
		Mr. Shailesh Kumar, AC to GP-5
For the AG, Bihar	:	Mr. Ram Kinker Choubey, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 21-11-2024 Heard Mr. Ranjeet Choubey, learned counsel
appearing on behalf of the petitioner; Mr. Nadim Seraj, learned
GP-5, alongwith Mr. Shailesh Kumar, learned AC to GP-5
appearing on behalf of the State and Mr. Ram Kinker Choubey,
learned counsel appearing on behalf of the Accountant General,
Bihar,

2. Petitioner has, *inter alia*, prayed for following



reliefs in the paragraphs No.1 of the writ petition:-

“(1) For issuance of appropriate writ(s)/direction(s) for quashing letter no.3029 issued on 01.09.2023 under signature of Secretary Technical (Respondent no.5) with respect to husband of petitioner whose name stand at serial no-2 whereby benefits of MACP has been rejected assigning the reason that he was not qualified Departmental Examination although any departmental examination is not required for granting benefits of MACP and ACPs.

(11) Further prays for issuance of direction in the name of respondent to grant financial benefits of 1st ACP, 2nd ACP as well as MACP which has not been granted to husband of the petitioner even after completion of 40years of service and also prays for consequential relief like revision of family pension and other benefits also.

(III) For any other relief of reliefs for which the petitioner is found entitled to.”

3. Learned counsel appearing on behalf of the petitioner informs that the husband of the petitioner was initially appointed as *Moharrir* in the office of Executive Engineer, Banmankhi Division, Kosi Project, Banmankhi on 01.09.1968. Later on he was transferred to the Ganga Pump Canal Division, Chausa, Buxar on 01.10.1993. The husband of the petitioner was superannuated from his service on 31.07.2009. The benefits of ACPs and MACP were not granted to the husband of the petitioner during his entire service period, on the ground that he had not qualified in the Departmental Examination. Learned counsel further submits that for grant of benefits of ACP, passing of Departmental Examination is not necessary but the authority has wrongly denied the claim of the husband of the



petitioner. However, the 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's husband 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 stagnated on the same post and she 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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