

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1859 of 2025

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Shushila Kumari wife of Ranjit Kumar, resident of village- Meyar, P.S.-
Noorsarai, District- Nalanda, retired Assistant Teacher, Middle School,
Meyar, P.S.- Noorsarai, District- Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
3. The District Education Officer, Nalanda at Bihar Sharif.
4. The District Programme Officer, Establishment Nalanda at Bihar Sharif.
5. The District Magistrate, Nalanda at Bihar Sharif.
6. The Drawing and Disbursing Officer cum Headmaster, Middle School, Pariauna, Noorsarai.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar No.1, Advocate.
For the Respondent/s : Standing Counsel (15)

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 06-02-2025 Heard learned counsel appearing on behalf of the
petitioner and learned counsel for the State.

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

“That this application is directed for issuance of writ/writs, order/orders, direction/directions to the respondents to pay arrears of difference of salary as per promotion in Modified Assured Career Progression (MACP) Scale from July 2022 to November 2023 which comes to Rs. 36,114/- (Thirty Six Thousand One Hundred Fourteen) with interest at the rate of 18% per annum compound and to pass other order or orders for which the petitioner is entitled.”

3. Learned counsel appearing on behalf of the



petitioner submits that the petitioner seeks to file a detailed representation before the Director, Primary Education, Bihar for redressal of her grievance 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 petitioner, 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 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. The Director, Primary Education is directed to call for the service particulars relating to the petitioner from the office of the District Programme Officer (Establishment), Nalanda, as well as, from the office of the District Education Officer, Nalanda in respect of the petitioner and verify, as to whether any disciplinary action or any penalty order has been passed against the petitioner and thereafter take a conscious decision and direct the competent authority to do the needful, if the petitioner is entitled for MACP and after granting such relief rectify the pension of the petitioner 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). The representation filed by the petitioner must be disposed of expeditiously, so that the petitioner who is a retired employee may not suffer financially on account of any inaction on the part of the authorities.

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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