

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8196 of 2022

Ratnesh Kumar Son of Late Chandrika Prasad, resident of Mohalla - Navratanpur, P.O. and P.S. Jakkanpur, District - Patna, presently posted as Senior Accounts Clerk, office of the Superintending Engineer, Road Construction Department, Bhojpur Road Circle, Ara.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Finance Department, Government of Bihar, Patna.
3. The Secretary (Expenditure), Finance Department, Government of Bihar, Patna.
4. The Principal Secretary, Road Construction Department, Government of Bihar, Patna.
5. The Engineer-in-Chief-cum-Additional Secretary-cum-Special Secretary, Road Construction Department, Government of Bihar, Patna.
6. The Chief Engineer (South), Road Construction Department, Government of Bihar, Patna.
7. The Superintending Engineer, Road Construction Department, Bhojpur Road Circle, Ara.
8. The District Accounts Officer, Bhojpur at Ara, District - Bhojpur at Ara.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Awnish Kumar, Adv.
For the Respondent/s : Mr. Amit Prakash, GA-13

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 09-07-2025

Heard the parties.

2. The grievance of the petitioner is confined to inaction of the respondent in not extending the benefit of ACP/MACP with effect from the due date in the light of provisions of Bihar State Employees Service Condition (Assured Career Progression Scheme) Rules, 2003; as also under the provisions of the Bihar Government Servant (Modified Assured Career Progression Scheme) 2010.



3. This is the second round of litigation, as earlier the petitioner had moved before this Court for identical relief in CWJC No. 10638 of 2020, wherein the challenge was made to the order dated 19.02.2020 issued under the signature of respondent no. 7, as contained in Memo No. 187 dated 19.02.2020, whereby the respondent no. 7 had been pleased to cancel/modify the previous order and was further granted the benefit of ACP/MACP with effect from the date of passing of the accounts examination.

4. A Bench of this Court vide order dated 25.01.2022 (Annexure-P/11) after hearing the parties has been pleased to set-aside the order aforementioned, reserving the liberty to the respondents to proceed in accordance with law, after giving due ample opportunity of hearing, the respondent authorities revisited the matter; and now they came out with the impugned order, which is under challenge before this Court by filing an interlocutory application bearing I.A. No. 01 of 2022.

5. Referring to the Full Bench decision of this Court in ***Kamlanand Thakur Vs. The State of Bihar & Ors., (2024) 4 BLJ 806*** learned Advocate for the petitioner contended that in order to give quietus to the issue, as has arisen on account of conflicting decision of different Benches, the matter was



considered by the learned Full Bench of this Court and the Court answered the question, as follows:-

“48. Thus, the questions stand answered as follows:-

(A) Rule 157(3) [J] of the Bihar Board's Miscellaneous Rules, 1958, requiring passing of Departmental Accounts Examination for promotion, is not applicable in case of grant of A.C.P. benefits under the A.C.P. Rules, 2003;

(B) Rule 157(3)[J] of the Bihar Board's Miscellaneous Rules, 1958 is confined to passing of preliminary examination/final examination in Accounts only for the purposes of confirmation, crossing the efficiency bar and promotion to Selection Grade only and not for regular promotion;

(C) Rule 4(5) of the A.C.P. Rules, 2003 even though provides that the prescribed requirements and mode of sanction of financial progression under the scheme (A.C.P. scheme) shall be the same which are prescribed under the Recruitment/Service Rules for regular promotion against vacancies and if the Rules/Resolutions prescribe passing of Departmental Examination or any qualification for promotion, that shall also be an essential condition for sanction of benefit under the scheme will not affect the claim for grant of A.C.P. after completion of twelve/twenty four years of service for the reason that such financial progression under the A.C.P. scheme is only in situ promotion and nothing more. This is even notwithstanding any such requirement of passing any Departmental Examination or acquiring any educational qualification for promotion under the Service/Recruitment/Promotion Rules.”

6. In view, thereof, learned Advocate for the petitioner submits that there is no iota of confusion that passing of the departmental examination is not *sine qua non* for the purpose of extending the benefit of ACP/MACP, moreover, such



financial progression is only *in situ* promotion and nothing more. He thus submitted that in view of the settled position, the impugned order is not sustainable and fit to be set-aside.

7. Learned Advocate for the State did not confront the legal position, as has been settled by the Full Bench of this Court.

8. Considering the submission set forth by the learned Advocate for the parties and perusing the Full Bench decision of this Court in the case of ***Kamlanand Thakur*** (supra), this Court set-aside the impugned order as contained in Memo No. 779 dated 13.08.2022 and direct the respondent no. 7 to consider the case of the petitioner in the light of the aforementioned pronouncement and extend all the benefits in accordance with law, preferably within a period of twelve weeks, from the date of receipt/production of a copy of this order.

9. With the aforesaid observation and direction, the writ petition stands allowed.

(Harish Kumar, J)

shivank/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	15.07.2025
Transmission Date	NA

