

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7166 of 2024

Ashok Kumar Upadhyay Son of Shiv Shankar Upadhyay, Resident of Mohalla- Prabhat Colony near Bhutnath Mandir, Police Station- K. Hat, District- Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Department of Health, Family Welfare and Medical Education, Government of Bihar, Patna.
2. The Director in Chief, Health, Services, Bihar, Patna.
3. Regional Additional Director, Health Services, Purnea Division, Purnea.
4. Civil Surgeon-cum-Medical Officer, Katihar,
5. State Drug Controller, Bihar, Patna,
6. Senior Treasury Officer, Katihar,
7. The Drug Inspector, Katihar,
8. The Accountant General (A and E), Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ram Hriday Prasad, Adv.
For the Respondent/s : Mr. Sanjay Parasmani, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 22-07-2025

Heard the parties.

2. The petitioner has approached this Court seeking direction upon the concerned respondent(s) to extend the benefit of 1st ACP w.e.f. 09.08.1999, 2nd A.C.P. from 20.03.2003 and 3rd MACP from 20.03.2009 after completion of 30 years of service.

3. The petitioner was duly appointed as Assistant in Purnea Surgency and was posted as Assistant in the Sub Divisional Hospital, Kishanganj. Subsequent thereto, in the year 1997, he was transferred in the office of Drug Inspector, Purnea



and, later on, he was posted as Assistant in Primary Health Centre, Dighal Bank, Katihar. On account of certain medical ailment, the petitioner went on medical leave from 26.11.2002 to 16.09.2007. The said period has been shown to be breakage in service of the petitioner, constraining the petitioner to file a writ petition before this Court bearing C.W.J.C. No.5353 of 2018. The said writ petition came to be disposed off on 26.09.2023 with a liberty to the petitioner to approach before the Civil Surgeon-cum-Medical Officer, Katihar along with his representation. The claim for regularization of the service period from 26.11.2002 to 16.09.2007 was duly considered by the Civil Surgeon-cum-Chief Medical Officer, Katihar and vide order as contained in Memo No.272 dated 25.07.2024, the afore-noted service period of the petitioner has been regularized. On the strength of the aforesaid order, the petitioner approached before the concerned authorities for extending the benefit of ACP/MACP. The claim of the petitioner was duly considered by the Screening Committee; however, it has been found that there was still some breakage of service of the petitioner for the period 01.03.2001 to 04.01.2002. The petitioner having come to know represented before the Civil Surgeon-cum-Medical Officer, Katihar with a request to regularize his



afore-noted period of service. On a request made by the petitioner, the Civil Surgeon-cum-Medical Officer, Katihar regularized the afore-noted service period of the petitioner vide order as contained in Memo No.2840 dated 02.11.2024.

4. Referring to the afore-noted facts, Mr. Ram Hriday Prasad, learned Advocate for the petitioner contended that now breakage of service of the petitioner has been regularized by the concerned authority and there is no impediment in extending the benefit of ACP/MACP. The petitioner has also made a prayer for the benefit(s), afore-noted, vide Annexure-P/12 on 11.11.2024 itself, but till date the same has not been considered.

5. Mr. Sanjay Parasmani, learned Advocate for the State, fairly submitted that the petitioner has already made a detailed representation before the respondent no.4, Civil Surgeon-cum-Medical Officer, Katihar, who is the competent authority to look into the matter and take appropriate decision.

6. In view of the aforesaid facts and the submissions set forth by the learned Advocate for the respective parties, this Court deems it fit and proper to dispose off the writ petition with a direction to the respondent no.4 to consider the claim of the petitioner for grant of ACP/MACP and pass an appropriate order, in accordance with law, preferably within a period of



twelve weeks from the date of receipt/production of a copy of this order.

7. Suffice it to observe that the petitioner has already superannuated on 28.02.2021; thus, the respondent authorities shall ensure consequential benefits to the petitioner within the period stipulated hereinabove.

(Harish Kumar, J)

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