

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.15228 of 2013**

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Ashok Kumar Mandal S/O- Late Lakhan Mandal Resident Of Village- Kohra,  
Post- Mirzanhat, P.S.- Lodhipur, District- Bhagalpur, Presently Posted In  
Observation Remand Home, Department Of Social Welfare, Bhagalpur

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Social Welfare, Government of Bihar, Patna
2. The Director, Social Welfare, Government of Bihar, Patna
3. The District Welfare Officer, Bhagalpur
4. The Dy. Director, Department of Social Welfare, Bhagalpur
5. The Assistant Director, Social Security Cell, Bhagalpur

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Amarendra Kumar, Advocate  
For the State : Mr. Gyan Prakash Ojha, GA- 7

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**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY**  
**ORAL JUDGMENT**

**Date : 05-12-2025**

Heard learned counsel for the parties.

2. The petitioner has filed the instant application for  
the following reliefs:

*“(i) For commanding the  
respondents to consider the case of the  
petitioner for the post of class III from the  
date of his entitlement in the light of the  
Finance department resolution no. 2937  
dated 31.03.2011.*

*(ii) For any other relief/reliefs  
for which the petitioner is entitled for in the  
fact and circumstances of the case.”*



3. The case of the petitioner in brief is that having been appointed on the post of Junior Supervisor, in Class-IV post in the Department of Social Welfare and posted at Bhagalpur in the year 1987, the petitioner was granted permission for appearing in the intermediate examination held in the year 1991. The petitioner passed the same.

4. It is contended by learned counsel for the petitioner that inspite of the decision of the respondents to promote Class-III employees on the post of clerk, the petitioner was not given his due promotion inspite of the representations filed and as such the instant writ application.

5. Learned counsel for the respondents in reference to the statement made in the counter affidavit states that steps are being taken by the respondents for promotion of the petitioner and for the same, the file has been sent to the Finance Department for their opinion. As soon as the opinion is received, concrete steps for promotion shall be taken.

6. Heard learned counsel for the parties and perused the material on record.

7. The petitioner who was appointed in the year 1987 as a Junior Supervisor in the Department of Social Welfare was posted in the observatory/reformatory home in Bhagalpur.



From the representation enclosed with the writ application, it transpires that even in the year 2012, he was posted at the same place.

8. From the counter affidavit filed on behalf of the respondents on 30.6.2025, it transpires that a panel of seniority of 4<sup>th</sup> grade employees was being prepared and as per the provisions incorporated in clause 3 of the memo dated 11.3.2011 of the Finance Department, it has been made clear that Grade-IV employees having qualification of appointment on the post of clerk can be appointed without taking any examination, on the basis of seniority.

9. A further counter affidavit has been filed on behalf of the Director, Social Welfare, Government of Bihar, relevant portion of which is reproduced herein below for ready reference:

*“7. That in response to the prayer made by the writ petitioner, it is most humbly submitted that the respondents are taking all due legitimate steps to give Promotion/Charge of higher post to the writ petitioner. That it is important to mention here that at present there is stay on a the promotion to the employees of the State Govt. but, recently govt. has decided to of give charge of next higher post to its*



*employees during the stay period. Since, there is a stay on promotion to the employees of State Government and further, there is no cadre rule for the post hold by the writ petitioner; therefore, some delay has been caused in redressal of grievance to the writ petitioner. However, presently the Social Welfare Department has sent the file to the Finance Department to take opinion in the matter, that, how, the promotion can be given to the writ petitioner and similar situated class-IV employees of the Department. That as soon as opinion shall be received from the Finance Department, the present answering respondent will start the due legitimate process of Promotion/charge to the next higher post in light of GAD letter issued in this regard.*

*8. That it is relevant to bring on record certain facts before this Hon'ble Court for the just decision of this case.*

*9. That vide order No. 295 dated 12.08.1987, issue by the Deputy Director, Welfare, Bhagalpur Division, the writ petitioner i.e. Shri Ashok Kumar Mandal had been temporarily appointed to the post of Junior Supervisor in the Observation Home, Bhagalpur in the pay scale of Rs. 400-540.*

*10. That in the year 1989-91, writ petitioner, Shri Mandal appeared in the*



*Intermediate Examination and passed the said examination with second division.*

*11. That vide order No. 288 dated 08.07.1998 issued by the Deputy Director, Welfare, Bhagalpur Division, Bhagalpur, the writ petitioner's pay had been fixed as a result of confirmation of service and further he was also granted first time bound promotion in accordance with the provisions of law.*

*12. That in light of the Finance Department's Resolution No. 660 dated 08.02.1999, the first time bound promotion given earlier was abolished and pay scale of Rs-2650-65-3300-70-4000 was fixed w.e.f. 01.01.96.*

*13. That vide letter no. 1574 dated 16.09.2008 of the Directorate of Social Welfare, the first ACP/MACP benefit in Rs-2750-70-3800-75-4400 w.e.f. 14.08.1999 was approved to the writ petitioner.*

*14. That vide letter no. 101 dated 14.01.2013 of the Directorate of Social Welfare, the service of writ petitioner i.e. Shri Ashok Kumar Mandal on the post Junior Supervisor has been confirmed w.e.f. 14.08.1990.*

*15. That vide Directorate's order no. 1709 dated 30.09.2016, writ petitioner i.e. Shri Ashok Kumar Mandal, Junior*



*Supervisor has been granted 2nd ACP/MACP in pay scale of Rs-5200-20200, Grade Pay 2000 with effect from 01.09.2009.*

*16. That the writ petitioner, Shri Ashok Kumar Mandal had filed the present writ petition bearing CWC-15228/2013 for grant of promotion to Group "C" in the light of Finance Department's letter no. 2937 dated 31.03.2011.*

*17. That Clause 3 of the Finance Department's Resolution No. 2937 dated 31.03.2011 states that the employees of Group "D" who are eligible for appointment to the post of Clerk will be appointed in the Clerical Cadre in the order of seniority without any examination. However, Clerical cadre rules have not been framed under the Directorate of Social Welfare and it is therefore, there is some delay in the redressal of the grievances of the writ petitioner.*

*18. That the Bench Clerk Cadre (Recruitment and Service Conditions) Rules, 2014 for the Juvenile Justice Board under the Directorate of Social Welfare, provision has been made for appointment and promotion to the post of Bench Clerk and the eligibility for this has also been prescribed in the said Rules. However, in the light of the opinion of the Finance Department, the file*



*has again been sent to Finance Department for formation of new Clerical Cadre Rules under the Directorate including the cadres of Bench Clerk, House Master-cum-Clerk and Accountant-cum-Storekeeper.*

*19. That in the past, as the Clerical Cadre Rules were not framed under the Directorate and after the Bench Clerk Cadre (Recruitment and Service Conditions) Rules, 2014 were framed in the year 2014, the file has been endorsed to the Finance Department for seeking advice from the Finance Department regarding the relevance of Finance Departmental Resolution No. 2937 dated 31.03.2011 at present.*

*20. That the writ petitioner has already been given all the admissible benefits as per the provisions of ACP/MACP, however, the matter related to the petitioner's promotion/charge of higher post is pending before the Finance Department for its Opinion, as soon as the opinion will be provided in the matter, the grievance of the writ petitioner and similar situated persons shall be redressed without any further delay, subject to the eligibility of the employees under newly framed rules.”*

10. From reading of the contents of the counter affidavit quoted herein above, it transpires that though the



petitioner has been granted the benefit of first ACP and second ACP with effect from 14.8.1999 and 1.9.2009 respectively, the benefit of regular promotion due to the petitioner still remains to be acted upon by the respondents. Once again in the counter affidavit, it has been reiterated that clause 3 of the Finance Department Resolution no. 2937 dated 31.3.2011 states that the employees of Group-D who are eligible for appointment to the post of clerk will be appointed in the clerical grade in the order of seniority without any examination. However, it further states that the clerical cadre rules have not been framed under the Directorate of Social Welfare and it is for this reason that there is some delay. It further states that the matter of promotion is pending before the Finance Department and the issue with respect to promotion shall be redressed without further delay.

11. In view of the facts and circumstances of the case, the Court disposes off the writ application with the following directions:

(i) The petitioner shall file a representation with respect to the grant of promotion before the Principal Secretary, Department of Social Welfare, Government of Bihar (respondent no. 1) and the Director, Social Welfare, Government of Bihar (respondent no. 2) within a period of four weeks.



(ii) The representation shall be decided within a period of three months from the date of its filing and the promotion due from the date of eligibility, in case the petitioner is found eligible, shall be given to the petitioner within the aforesaid period.

(iii) The consequential benefits of the promotion shall also be given to the petitioner.

12. The writ application stands disposed off with the above observations and directions.

**(Partha Sarthy, J)**

saurovkrishna/-

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