

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9993 of 2020

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1. Phuleshwar Prasad Yadav Son of Late Bhuneshwari Prasad Yadav, resident of Village - Machhaha, P.O.- Tengraha, P.S.- Singheshwar, District - Madhepura.
 2. Budhsen Kumar, Son of Sri Shira Prasad Yadav, resident of Village - Itahari, P.O.- Gahumani, P.S.- Singheshwar, District - Madhepura.
 3. Kailash Prasad Gupta, Son of Late Ramcharitar Prasad, resident of Village/Muhalla - Ward No. 14, P.O. and P.S. and District - Madhepura.
 4. Anant Mandal, Son of Late Sundar Mandal, resident of Village/Muhalla - Ward No. 1, P.O. and P.S. and District - Madhepura.
 5. Panchu Ram Son of Late Munar Ram, resident of Village - Vaiyaghat, P.O.- Tulsiwari, P.S. and District - Madhepura.
 6. Mohan Kumar Ram, Son of Thakur Ram, resident of Village/Muhalla - Ward No. 7, P.O. and P.S. and District - Madhepura.
 7. Rajendra Mallick Son of Basudeo Mallick, resident of Village/Muhalla - Ward No. 6, P.O. and P.S. and District - Madhepura.
 8. Radhe Prasad Yadav, Son of Late Baldeo Prasad Yadav, resident of Village-Mithai, P.S. and District - Madhepura.
 9. Krishna Kumar, Son of Sri Vijendra Prasad Yadav, resident of Village - Manhara, P.O. Sukhasan, P.S. and District - Madhepura.
 10. Ganesh Mukhiya Son of Sri Ghuran Mukhiya, resident of Village - Belaganj, P.O. and P.S. and District - Madhepura.
 11. Lal Bahadur Yadav, Son of Sri Surendra Prasad Yadav, resident of Village and P.O. - Sree Nagar, P.S.- Ghailarh, District - Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary Education Department, Government of Bihar, Patna.
2. The Bhupendra Narayan Mandal University, Laloo Nagar Madhepura, through its Registrar.
3. The Vice-Chancellor, B.N. Mandal University, Laloo Nagar, Madhepura.
4. The Registrar, B.N. Mandal University, Laloor Nagar, Madhepura.
5. The Principal, T.P. College, Madhepura.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Nagendra Upadhyay, Advocate
For the State	:	Mr. Subhash Chandra Mishra, SC-16
For the University	:	Mr. Apurva Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH



ORAL ORDER

5 13-02-2025 Heard Mr. Nagendra Upadhyay, learned counsel appearing on behalf of the petitioners; Mr. Apurva Kumar, learned counsel appearing on behalf of the Bhupendra Narayan Mandal University and Mr. Subhash Chandra Mishra, learned SC-16 for the State.

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

"1. That this is an application for issuance of a writ in the nature of mandamus directing and commanding the respondents to grant the benefit of ACP/MACP to the petitioners and to make payment difference of salary of petitioners to the petitioners arising out of benefit of ACP/MACP and further directing the respondents to revise the pay scale of petitioners in view seventh pay Commission and to pay the revised salary of petitioners to the petitioners with compound interest as similarly situated employees of other colleges of the university have been given the benefit of ACP/MACP and revised salary in view of seventh pay commission and/or pass other order/orders for which the petitioners are found to be entitled."

3. Learned counsel appearing on behalf of the petitioners submits that the petitioners have already filed a detailed representation before the Registrar of the University though they seek to file detailed individual representation before the Additional Chief Secretary, Education Department, for redressal of their 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, as well as, in light of statement made in paragraphs no. 6 and 7 of the counter affidavit filed on behalf of the respondents no. 2, 3 and 4, which are reproduced hereinafter:

"6. That all the petitioners had filed the writ application bearing CWJC no. 4623 of 2009 and their services have been regularised w.e.f. 12.08.1995 and at the same time of disposal of the writ application the Hon'ble High Court has given specific direction "So far it relates to regularisation of Class- IV employees, any of the petitioners getting benefit of regularisation shall be entitled to count their service from 12.08.1995, because the counter part 8 of them were given such benefit from 12.08.1995, but their actual payment of salary in the prescribed pay scale shall commence only from the date of issuance of such order. In other words they may get continuity of service from 12.08.1995, but the financial commitment on account of such regularisation and its payment shall commence from a prospective date on which the university would pass such order."

7. That in the light of aforesaid direction of the hon'ble high court a Three Men Committee was constituted and after due consideration notification was issued on 19.07.2012 i.e. Annexure-I to the writ application, meaning thereby that from 19.07.2012 the petitioners would get salary etc."

4. Considering the aforesaid information given by the petitioners, 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 petitioners 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 Additional Chief Secretary, Education Department, is directed to call for the service particulars relating to the petitioner and take a conscious decision and direct the competent authority to do the needful, if the petitioners are entitled for MACP 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)**.

8. The individual representations filed by the petitioners must be disposed of expeditiously, so that the petitioners may not suffer financially on account of any inaction on the part of the authorities.

9. 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.

10. With the above observation/direction, the present writ petition stands disposed of.

(Purnendu Singh, J)

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