

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17780 of 2017

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Kailash Paswan Son of Late Bhubneshwar Pashwan, Resident of Village-
Adarsh Nagar, Amarpur Road, Banka, Ward No.-6, Banka P.S. District-banka.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Road Construction Department, Govt. of Bihar, Bishwasharaiya Bhawan, Patna.
2. The Superintendent Engineer, Road Construction Department, East Bihar Circle, Bhagalpur.
3. The Executive Engineer, Road Construction Department, Road Division, Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Dr. Harendra Nath Ojha, Advocate
For the Respondent/s : Mr. Rakesh Ranjan, AC to GP-22

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 11-04-2025 Heard Learned Counsel for the petitioner and

Learned Counsel for the State.

2. The present writ petition has been filed for setting aside the Office Order No.18(A) dated 06.06.2017 (Annexure-4) passed by Superintending Engineer, Road Construction Department, East Bihar Circle, Bhagalpur, which was based upon the decision of Screening Committee dated 05.06.2017 constituted under letter No.10936 dated 27.11.2014 of Finance Department, Government of Bihar, by which the earlier Office Order No.38, Memo No.1151 dated 19.08.2013 under which the M.A.C.P. monetary benefit Rs.PB-2+4600 provided to the



petitioner with effect from 01.01.2009 has been set aside and further directed to recover the excess payment particularly when petitioner had already retired on 28.02.2017.

3. Learned Counsel for the petitioner submits that the petitioner is a retired employee and he was granted certain benefits based upon the decision of the Screening Committee dated 05.06.2017 constituted under letter No.10936 dated 27.11.2024 of the Finance Department. Counsel submits that M.A.C.P. monetary benefit was provided to the petitioner with effect from 01.01.2009 which has been set aside and direction was made to recover the excess payment; whereas the petitioner has already retired. Counsel for the petitioner submits that the petitioner has filed the writ petition for setting aside the said order but during pendency of the present writ petition before this Hon'ble Court, the case of Kamlanand Thakur and Others with batch cases passed in (CWJC No.18727 of 2017 with analogous cases), this issue involved in the present case directly and substantially has been decided by Hon'ble Full Bench of this Court vide order dated 28.06.2024. Counsel submits that in petitioner's case same treatment be made as like that of Kamla Nand Thakur's case.

4. Learned Counsel for the State submits that the



respondent authority may be directed to scrutinize the case of the petitioner that whether petitioner covers under the case of Kamlanand Thakur case (supra) or not.

5. In this background that during pendency of the writ petition subsequent development has taken place, this writ petition is disposed off directing the petitioner to file fresh representation before respondent No.2, the Superintending Engineer, annexing the order of Kamla Nand Thakur case and the authority upon receiving the representation of the petitioner shall decide about applicability of this case of the present petitioner within 90 days thereafter.

6. It is made clear that till test of the applicability of the said Kamlanand Thakur case upon the petitioner the order dated 06.06.2017 passed by respondent No.2, which is impugned in this case, shall remain stayed.

(Dr. Anshuman, J)

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