IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.630 of 2018
In
Civil Writ Jurisdiction Case No.19833 of 2016

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1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Finance 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 Deputy Secretary, Road Construction Department, Government of Bihar, Patna.
7. The Joint Secretary, Road Construction Department, Government of Bihar, Patna.
8. The Chief Engineer (Mechanical), Road Construction Department, Mechanical Wing, Bihar, Patna.
9. The Superintending Engineer (Mechanical), Road Construction Department, National Highway Mechanical Circle, Patna.
10. The Executive Engineer (Mechanical), Road Construction Department, National Highway, Mechanical Division, Dehri-On-Sone, District-Rohtas.

... ... Appellants.

Versus

Santosh Kumar, Son of Late Braj Mohan Ram, Resident of Mohalla- Sri Nagar, Thakurwari Road, P.O. and P.S. Aurangabad, District- Aurangabad, presently posted as Senior Accounts Clerk in the office of the Executive Engineer (Mechanical), Road Construction Department, National Highway Mechanical Division, Dehri-on- Sone, District- Rohtas.

... ... Respondent.

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Appearance :
For the Appellants-State : Mr. Parijat Saurav, AC to AAG-10.
For the Respondent : Mr. Siyaram Pandey, Advocate.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE S. B. PD. SINGH
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 07-07-2025

On 19.04.2025, we had passed the following order:

"Issue notice to the respondent under

ordinary process as well as registered cover with A/D. Necessary requisites shall be remitted in the Registry within a period of two weeks from today.

2. Learned counsel for the appellants-State admitted that for the purpose of extending ACP benefit, an employee need not pass examination, whereas respondent-Santosh Kumar entered into service on 06.08.2011 and his name was required to be considered for ACP benefit with reference to eligibility criteria of 12 years of service and it would be as on 06.08.2011. On the other hand, on 13.07.2010, ACP Scheme had been seized and MACP Scheme was introduced with effect from 01.01.2009. Therefore, what remains in the present lis is whether respondent-Santosh Kumar is entitled to MACP benefit instead of ACP benefit with effect from 01.01.2009 or any other date on which he completes 10 years of service.

3. Re-list this matter on 30.06.2025."

2. Respondent was asked to apprise this Court whether has he fulfilled 12 years of minimum service for the purpose of claiming ACP benefit with reference to his date of initial appointment to the post of Junior Accounts Clerk on 06.08.1999 and it has been converted into Senior Accounts Clerk. In other words, his initial appointment is to the post of Senior Accounts Clerk. Therefore, 12 years are required to be calculated with effect from his initial appointment to the post of Senior Accounts Clerk with effect from 06.08.1999, he would be completing 12 years of service on 06.08.2011.

3. On the other hand as on 13.07.2010, ACP Scheme has been wound up, resultantly, MACP Scheme was introduced with effect from 01.01.2009. Accordingly, the respondent has not made out a case in respect of claiming ACP benefit. To the above extent, the learned Single Judge has committed error. Accordingly, Appellants-State have made out a case so as to interfere with the order of the learned Single Judge dated 28.11.2017 passed in C.W.J.C. No.19833 of 2016 and it is set aside. Writ petition (C.W.J.C. No.19833 of 2016) stands dismissed, reserving liberty to the respondent to claim MACP benefit, if it is not extended as on this day. In that regard, he is permitted to make necessary requisites. If it is made, the concerned authority is hereby directed to take note of his eligibility for the purpose of extending MACP benefit.

4. With the above observation(s), the present L.P.A. stands allowed.

(P. B. Bajanthri, J)

(S. B. Pd. Singh, J)

P.S./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	09.07.2025.
Transmission Date	NA