

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10597 of 2025

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Manoj Kumar Ranjan, Son of Late Basudev Malakar, resident of Baisha,
Police Station Parwata, District Khagaria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Vishwesharaiya Bhawan, Bailey Road, Patna.
2. The Engineer-in-Chief-cum-Additional Commissioner-cum-Special Secretary, (Headquarter), Road Construction Department, Vishwesharaiya Bhawan, Bailey Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rupak Kumar, Adv.
For the Respondent/s : Ms. Jahanara, Adv.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 14-07-2025

Heard the parties.

2. The petitioner is aggrieved with the order dated 28.12.2023 issued under the signature of the Engineer – in – Chief – cum - Additional Commissioner – cum - Special Secretary (Headquarter), Road Construction Department whereby the claim of the petitioner for grant of 1st A.C.P. with effect from 18.04.2003, 2nd M.A.C.P. with effect from 18.04.2011 and 3rd M.A.C.P. with effect from 18.04.2021 came to be rejected.

3. The petitioner was appointed as Junior Engineer in Road Construction Department long back in the year 1991; while he was discharging his duty in the Building Division,



Supaul, in the mean while, he was subjected to a departmental proceeding under charge memo dated 29.08.2006. The said departmental proceeding culminated into dismissal of the petitioner on 31.01.2008. The appeal preferred by the petitioner did not find favour and both the order of the dismissal as well as appellate order were put to challenge in C.W.J.C. No. 13984 of 2008.

4. A Bench of this Court vide order/judgment dated 27.06.2018 set aside the order of dismissal as well as appellate order. Aggrieved with the order passed by the learned Single Judge, the State preferred L.P.A. No. 371 of 2019 which also came to be rejected, however, with a liberty to the State to initiate proceeding afresh from the stage of submission of charge-sheet and leading of evidence.

5. In pursuant to the order passed by learned Single Judge of this Court, the petitioner has been reinstated in service and the period of dismissal is treated on duty with payment of full salary. Notwithstanding the aforesaid facts, when the claim of the petitioner was not considered for extending the benefit of A.C.P./M.A.C.P., he approached before the concerned authorities, but no action has been taken, compelling the petitioner to approach before this Court in C.W.J.C. No. 7947 of 2023 for grant of benefit of A.C.P./M.A.C.P..



6. While the matter was under consideration, in the mean time, the department proceeded with the disciplinary proceeding and finally resulted in issuance of penalty of reduction to a lower stage in time scale of pay for a period of two years with cumulative effect vide office order dated 25.04.2023. Subsequent thereto, the writ petition bearing no. 7947 of 2023 came to be disposed off with a direction to the Engineer-in-Chief, Road Construction Department, Government of Bihar to consider the case of the petitioner for grant of benefit of 1st A.C.P., 2nd M.A.C.P and 3rd M.A.C.P. and pass appropriate order. The learned Court made it clear that unavailability of vigilance clearance report cannot be a ground not to consider the case of the petitioner for grant of A.C.P./M.A.C.P.. In pursuant to the order passed by a Bench of this Court afore-noted, the petitioner filed a detailed representation, however, the same came to be rejected vide order dated 28.12.2023 on the premise of pendency of a certificate proceeding for recovery of alleged public money to the tune of Rs. 14,53,827/- with an additional ground that the petitioner was inflicted with the penalty of reduction to a lower stage in time scale of pay for a period of two years with cumulative effect is still in operation.

7. Mr. Rupak Kumar, learned Advocate for the petitioner assailing the impugned order has submitted that the



order passed by the District Certificate Officer in Certificate Case No. 406 of 2019 was challenged in Appeal No. 01 of 2022. However, the same came to be dismissed by the District Collector. Both the orders were questioned before this Court in C.W.J.C. No. 14400 of 2023. The learned Court upon consideration, on being found the certificate proceeding initiated in Certificate Case No. 406 of 2019 is not only barred by limitation, but also without jurisdiction, as the amount sought to be recovered does not fall within the meaning of “public demand” under Section 3(6) of Bihar & Orissa Public Demands Recovery Act, 1914. Both the orders passed by the Certificate Officer as well as the appellate authority, consequently, quashed and cancelled. On the strength of the aforesaid order, the impugned order is questioned before this Court that now there is no impediment in extending the benefit of A.C.P/M.A.C.P..

8. Taking this Court through the letter no. 2910 dated 28.02.2022 as contained in Annexure P/6 issued under the Department of General Administration, Mr. Rupak Kumar, learned Advocate, further contended that there is no iota of confusion that if the employee is entitled for promotion and benefit of A.C.P. prior to the date of operation of punishment, it would not cause any effect over the entitlement of the employee accrued earlier. In the case in hand, the petitioner is entitled to



get the benefit of 3rd M.A.C.P. with effect from 18.04.2021, hence, in no circumstances the order of penalty, which came to be passed on 28.12.2023 would apply and cause any impediment to extend the benefit of A.C.P./M.A.C.P..

9. Ms. Jahanara, learned Advocate for the State dispelling the afore-noted contention has submitted that since the vigilance clearance report of the petitioner do not find favour, hence the petitioner has not been extended the benefit of A.C.P./M.A.C.P.; moreover, considering the pendency of the certificate case, which was pending at the relevant time, his claim has rightly been rejected.

10. Having regard to submissions set forth and the materials available on record, this Court finds that there is no certificate case in existence, as the order passed in certificate case as well as appellate order have already been quashed and cancelled by a Bench of this Court in C.W.J.C. No. 14400 of 2023. This Court further finds that since the petitioner had already acquired all his entitlement to get the benefit of A.C.P./M.A.C.P. much before the date on which the penalty order came to be passed, hence it would not cause any eclipse over the entitlement of the petitioner. A vested right cannot be divested unless the order causing impediment is specifically made retrospective by operation and necessary implication,



hence, the second objection raised by the authority concerned is also not applicable.

11. In view of the aforesaid facts, this Court has no hesitation to set aside the impugned order dated 28.12.2023 and directed the respondent no. 2 to consider the claim of the petitioner for extending the benefit of 1st A.C.P. with effect from 18.04.2003, 2nd M.A.C.P. with effect from 18.04.2011 and 3rd M.A.C.P. with effect from 18.04.2021 and ensure the consequential benefit in accordance with law. The entire exercise must be completed preferably within a period of 12 weeks from the date of receipt/production of a copy of this order.

12. The writ petition stands allowed to the extent indicated hereinabove.

(Harish Kumar, J)

supratim/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.07.2025
Transmission Date	NA

