

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.14022 of 2024**

1. Anil Kumar Mishra Son of Late Narmadeshwar Mishra, Resident of Village- Bhagwanpur Bazar Gola, P.S- Bhagwan Bazar, District- Saran (Chapra).
2. Yogendra Nath Sharma, Son of Late Jaynarayan Thakur, Resident of Mohalla- Nurdiganj Khangarpar, P.S- Malsalami, District- Patna.
3. Shatrughna Mandal, Son of Late Yamuna Mandal, Resident of- Ramraj Apartment, Brahamsthani Gali, Raja Bazar, P.S. Shastrinagar, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Secretary, Primary Secondary and Mass Education, Vikash Bhawan, Baily Road, Patna.
2. The Director, Directorate of Mass Education (Formerly Directorate of Adult and Non-formal Education) Vikash Bhawan, Baily Road, Patna.
3. Regional Deputy Director of Education, Education Department, Saran Division, Chapra.
4. District Education Officer, Saran (Chapra).
5. District Programme Officer (Education), Saran (Chapra).

... .. Respondent/s

**Appearance :**

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| For the Petitioner/s | : | Mr. Braj Kishore Singh, Advocate<br>Mr. Kishore Kumar Thakur, Advocate<br>Mr. Amit Kumar, Advocate |
| For the Resp-State   | : | Mr. Raj Kishore Roy, GP-18                                                                         |

**CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR**  
**ORAL ORDER**

4      13-10-2025                      Heard Mr. Kishore Kumar Thakur, learned counsel for the petitioners and Mr. Raj Kishore Roy, learned GP-18 for the State.

2. The petitioners have invoked the extraordinary jurisdiction of this Court seeking following relief(s):

*“i) To set aside the order contained in Memo no 704 dated 12.06.2024 issued under the signature of*



*respondent Regional Deputy Director of Education, Saran Division, Chapra, whereby the representation of the petitioners, submitted in compliance of the direction of this Hon'ble Court dated 22.03.2024 issued in writ application CWJC No. 4201 of 2024, for allowing them 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> ACP/MACP with effect from 09.08.1999 and 01.01.2009 respectively, by counting their entire length of service rendered in their organisation, i.e., Directorate of Adult and Non-formal Education of the Department of Education (now known as Mass Education), has been rejected, without taking into account Rule 22 of the MACP Rules 2010.*

*ii) Further prayer in the present writ application is for a direction to the respondents to make suitable amendments in the office order contained in Memo No- 395 dated 16.06.2017 and office order contained in Memo No- 210 dated 21.02.2019, both issued under the signature of respondent Regional Deputy Director of Education, Saran Division, Chapra by which the petitioner nos. 2 and 3 have been allowed 1<sup>st</sup> MACP with effect from 06.07.2016 and 02.09.2014 respectively by counting their service period of 10 years with effect from the date of their absorption by way of fresh*



*appointment, after their retrenchment from the Directorate of Adult and Non-formal education of the Education department.*

*Similarly of the office order contained in Memo no. 123 dated 06.03.2018 issued under the signature of same respondent Regional Deputy Director of Education, Saran Division Chapra requires suitable amendment by which, the petitioner no-1 has been allowed 1<sup>st</sup> MACP with effect from 25.11.2015, i.e., the date petitioner no-1 was given benefit of permanent absorption after his retrenchment from the Directorate of Adult of Adult and Non-normal Education.*

*iii) Thereby the petitioners further pray for a direction to the respondents to re-fix their pension in the next higher pay scales payable to them on grant of such 1<sup>st</sup> ACP, 2<sup>nd</sup> MACP and 3<sup>rd</sup> MACP with due dates. Similarly, the other retiral dues of the petitioners such as gratuity, leave encashment etc. be also re-calculated as per the higher payscale admissible to the petitioners on grant of such ACP/MACP from due dates.”*

3. Mr. Kishore Kumar Thakur, learned advocate for the petitioners have adverting to the facts narrated in the writ



petition has submitted that the identical matter has come for consideration before this Court in ***Mahendra Jha vs. The State of Bihar & Ors.*** passed in ***C.W.J.C. No. 1937 of 2019***, which came to be disposed of by this Court on 24.10.2014, in following terms:

*“10. Before parting with the case, it would be relevant to note that though before the learned Division Bench in L.P.A. No. 438 of 2017, the persons aggrieved were the employees of Dairy Development Corporation, duly managed and controlled by the State of Bihar, subsequently on account of financial crisis, the Corporation was taken over by the Department of Animal Husbandry in the Government of Bihar. The services of the employees were duly absorbed; nonetheless their services rendered in the Corporation were not counted for grant of benefit under the ACP and MACP schemes. In the premise of this facts, the learned Division Bench, highlighting the import of Rules 10 and 22 of the Rules, 2010 affirmed the order of the learned Single Judge by holding that in case of absorption, the principle applicable in the case of appointment or fresh appointment will not apply. In the case in hand, the petitioner was admittedly a retrenched employee of Directorate of Adult*



*Education, whose services were later on absorbed in the State of Bihar with a clear stipulation that the period rendered prior to retrenchment shall be counted for pension. Thus, in the opinion of this Court, the ratio decided by the learned Division Bench of this Court would govern the case of the petitioner.*

*11. Considering the rival submissions made on behalf of the parties and taking note of the fact that the issue raised before this Court has already been set at rest by the learned coordinate Bench of this Court in C.W.J.C. No. 11936 of 2011 as well as the learned Division Bench of this Court in L.P.A. No. 438 of 2017, this Court finds substance in the submissions of the petitioner and accordingly directs the respondents no. 3, 4 and 5 to consider the claim of the petitioner for grant of 1st, 2nd and 3rd ACP/MACP with effect from the due date by counting the entire period of regular service rendered by him in the Directorate of Adult and Non-formal Education in terms of the provisions contained in Rule, 22 of the Rules, 2010 read with the observations and mandate of this Court passed in C.W.J.C. No. 11936 of 2011 and L.P.A. No. 438 of 2017.*

*12. The respondent authorities*



*shall also be obliged to take note of the fact that other similarly situated persons have been accorded the similar benefit(s), the copies of which have been marked as Annexures-P-15 and 16 to the supplementary affidavit.*

*13. The aforesaid exercise must be completed, preferably within a period of twelve weeks from the date of receipt/production of a copy of this order.*

*14. The writ petition stands disposed off with the aforesaid direction.”*

4. The reliance has also been placed on a decision rendered by this Court in case of ***Ujjwal Kant vs. the State of Bihar and Ors.*** passed in ***C.W.J.C. No. 182 of 2022***. It is the contention of the petitioners that no more adjudication is required since the issue has been given a quietus in various litigation. Notwithstanding the aforesaid fact, the petitioners have been deprived from the relief(s) as prayed for in the writ petition and by the impugned order, the representation of the petitioners for extending the benefit of 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> ACP/MACP with effect from 09.08.1999 and 01.01.2009 respectively by counting their entire length of service rendered in their organization came to be rejected, without taking into account Rule 22 of the MACP Rules, 2010.

5. Learned advocate for the State referring to the



counter affidavit has submitted that the claim of the petitioner has been refuted by the concerned respondents since the services of the petitioners were terminated in year 2001 by the Secretary, Primary and Adult Education, Government of Bihar and finally the petitioners were absorbed in view of the Government resolution no. 582 dated 20.05.2005, in which it is clearly indicated that their appointments should be treated as a fresh appointment and they shall not get the benefit of seniority on the basis of past services, therefore, the length of services of the petitioners shall be treated with effect from the date of absorption.

6. Having considered the submissions advanced and taking note of the decisions, over which reliance has been placed, the impugned order containing Memo No. 704 dated 12.06.2024 appears to be wholly unsustainable and accordingly the same is hereby set aside.

7. The matter is relegated to the Director, Directorate of Mass Education, Vikash Bhawan, Patna to consider the claim of the petitioners afresh in light of the order of this Court rendered in C.W.J.C. No. 1937 of 2019 and C.W.J.C. No. 182 of 2022 preferably within a period of twelve weeks from the date of receipt/production of a copy of this order.



8. It suffices to observe that if the case of the petitioners is found to be identical to those of the petitioners of aforenoted writ petitions, identical benefits must be accorded to them within the period stipulated.

9. The writ petition stands disposed of in the similar term.

**(Harish Kumar, J)**

Nilmani/-

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