

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16249 of 2012

- 1.1. Rambha Devi Wife of Late Bhawa Nand Jha Resident of Village- Gorgama, P.S.- Tarapur, District- Munger.
- 1.2. Prem Shankar Jha Son of Late Bhawa Nand Jha Resident of Village- Gorgama, P.S.- Tarapur, District- Munger.
- 1.3. Karuna Shankar Jha Son of Late Bhawa Nand Jha Resident of Village- Gorgama, P.S.- Tarapur, District- Munger.
- 1.4. Gyan Shankar Jha Son of Late Bhawa Nand Jha Resident of Village- Gorgama, P.S.- Tarapur, District- Munger.
- 1.5. Smt. Pinki Devi Daughter of Late Bhawa Nand Jha, Wife of Arun Kumar Jha at- Olapur, P.S.- Pirpanti, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Public Health Engineering Department, Patna.
2. The Secretary, Public Health Engineering Department, Govt. of Bihar, Patna.
3. The Engineer-In-Chief, Public Health Engineering Department, Patna.
4. The Chief Engineer, Public Health Engineering Department, Bhagalpur.
5. The Superintending Engineer, Public Health Engineering Department, Munger.
6. The Executive Engineer, Public Health Engineering Department, Munger.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ramesh Kumar Singh, Advocate Mr. Rana Ishwar Chandra
For the Respondent/s	:	Mr. Santosh Chandra Bhaskar, AC to GP-11

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 31-10-2025

Heard learned counsel for the petitioners and
learned counsel for the respondents.

2. The original petitioner (hereinafter referred to as



‘the petitioner’) filed the instant application for the following relief(s) :-

“1.(i) For commanding and directing the respondents to provide the petitioner two subsequent above pay-scales from his existing one; i.e; to fix the pay-scale of the petitioner in the pay band of Rs. 3200-4900 in place of his existing pay band of Rs. 2750-4400.

(ii) For commanding and directing the respondents to provide all consequential monetary benefits arising thereof by way of the said enchancement in pay-scale in the shape of arrears as well as to revise and fix the pension, accordingly.

(iii) For grant of such other relief(s) for which the petitioner may be found entitled in the facts and circumstances of this case”

3. The case of the original petitioner in brief is that he joined the Public Health Engineering Department (‘P.H.E.D’ in short) on 26.5.1972 as an Assistant Plumber under the Work Charge Establishment. Subsequently in the P.H.E.D, the posts of the Assistant Plumber and the Plumber were merged on 8.4.1980. The petitioner was regularized w.e.f. 8.4.1982 and finally superannuated on 30.4.2008 after service of 36 years.

4. The original petitioner having died on 25.5.2017,



by order dated 16.5.2024 he was substituted by his legal heirs.

5. It is submitted by learned counsel for the petitioner that the respondents treating the cadre amalgamation as promotion have not granted the benefits under the 1st Assured Career Progression (ACP) Scheme to the petitioner but only the 2nd ACP. The petitioner became entitled for the 1st and 2nd ACP with effect from 9.8.1999 having completed 12 years and 24 years in service on 26.5.1984 and 26.5.1996 respectively. As such it is submitted that the respondents be directed to give the benefit of the 1st ACP which has not been given, consequent of which would be fixing of the pay scale of the petitioner in the pay band of Rs. 3200-4900.

6. It is submitted by learned counsel for the respondents that the petitioner who was appointed as an Assistant Plumber in the Work Charge Establishment on 26.5.1972 was subsequently promoted as Plumber Mistri on 11.9.1981 and as a result of the same was granted financial benefit of 12% in his basic pay scale which was increased from Rs.179/- to Rs.202/- with effect from 8.4.1980. Having got the benefit of promotion from 8.4.1980, the petitioner is not entitled for the first time bound promotion. So far as the



2nd ACP is concerned, having completed 24 years of service on 26.5.1996, on coming of the ACP Scheme, the same has been granted to the petitioner w.e.f 9.8.1999.

7. Heard learned counsel for the parties and perused the material on record.

8. The relevant facts in brief are that the petitioner was appointed in the Work Charge Establishment in the P.H.E.D on 26.5.1972. Subsequently, the posts of the Assistant Plumber and the Plumber were merged on 8.4.1980.

9. Accepting the engagement of the petitioner in Work Charge Establishment on 26.5.1972, which has not been disputed even by the respondents, the petitioner becomes entitled for 1st ACP and 2nd ACP on 26.5.1984 and 26.5.1996 respectively, the same being payable to the petitioner on coming of the ACP Scheme w.e.f. 9.8.1999.

10. Even as per the case of the respondents, the benefit of the 2nd ACP has been given to the petitioner w.e.f. 9.8.1999, however the benefit of the 1st ACP has not been given on the ground of the petitioner having been granted promotion w.e.f. 8.4.1980. So far as this contention of the respondents with respect to grant of promotion to the petitioner is concerned, neither any supporting document has



been brought on record by the respondents and further even as per the undisputed case, the petitioner who was initially appointed in the Work Charge Establishment on 26.5.1972 was taken into regular establishment only on 8.4.1982. Thus, this Court is not convinced with the argument of the respondents that the petitioner before being taken into regular establishment had been granted promotion (on 11.9.1981) besides there being no documentary evidence in support of the said fact.

11. In view of the facts of the case, the Court is convinced that the petitioner has made out a case for allowing the instant writ application. The petitioner is held entitled for the benefits of both 1st ACP and 2nd ACP. The respondents having already calculated and granted the benefit of 2nd ACP to the petitioner, they will grant the benefit of 1st ACP also w.e.f. 9.8.1999 ie the date of coming of the Scheme.

12. In view of the facts and circumstances of the case, the writ application is allowed with a direction to the Executive Engineer, Public Health Engineering Department, Munger (respondent no.6) to grant of the 1st ACP and to pay the consequential financial benefits to the petitioner within a period of three months from the date of



communication/receipt of a copy of this order.

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	03.11.2025
Transmission Date	

