

**[9IN THE HIGH COURT OF JUDICATURE AT PATNA  
Civil Writ Jurisdiction Case No.13728 of 2023**

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Jay Nath Prasad Son of Ram Janam Rai, Resident of Village- Jilkabad, P.S-  
Gorkha, District-Chapra (Saran).

... .. Petitioner/s

Versus

1. The State of Bihar Through the Principal Secretary, Road Construction Department, Vishweshwaraiya Bhawan, Bailey Road, Patna.
2. The Superintending Engineer, Saran Road Circle, Road construction department, Hajipur.
3. The Executive Engineer, Road Division, Road Construction department, Siwan.

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Kishore Kumar Thakur  
For the Respondent/s : Mr.Syed Iqbal Ahmad ( Sc 20 )

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**CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL**  
**ORAL ORDER**

3      03-03-2025                      Heard learned counsel for the petitioner and learned  
counsel for the respondents.

2. This petition has been preferred by the petitioner  
seeking the following reliefs:-

*“i)To set aside the office order no-58  
communicated vide Memo no. 12 dated 04-01-  
2022, issued under the signature of  
respondent Superintending Engineer Road  
Circle Saran at Hajipur under the Road  
Construction department of respondent State,  
whereby, the petitioner has been allowed 1st  
Assured Career Progression (hereinafter  
referred to as ACP for Short) with effect from  
22-10-2021, i.e, the date, the petitioner  
passed the Department Accounts  
Examination.*

*ii) Further prayer in the present writ  
application is to grant him 1st ACP with effect*



*from 04-08-2004 in terms of ACP Rule 2003, taking into account the fact that the petitioner having entered the service of respondent State on 04-08-1992, completed 12 years of qualifying service, and thus became eligible for grant of 1st ACP, with effect from said date of 04-08-2004.*

*iii) For a further direction to the respondents to allow him the monetary benefit of such ACP by making his pay fixation in the higher pay scale of Rs. 5000-8000, on grant of 1st ACP to him, with effect from 04-08-2004 In view of the admitted position that the pay scale of Rs. 4500-7000 has been amalgamated in the pay scale of Rs. 5000-8000, by the respondent State with effect from 01-01-2006, thus making the petitioner entitled to such unified pay scale of Rs. 5000-8000. A copy of the office order no- 58 communicated vide Memo no- 12 dated 04-01-2022 issued under the signature of respondent Superintending Engineer is annexed hereto, marked Annexure P-1 for identification which forms part of this writ application.*

*iv) For a further direction to the respondents to grant 2nd and 3rd MACP to the petitioner from due dates, in the light of the judgments rendered by This Hon'ble Court in L.P.A. no 590 of 2015 as well as L.P.A. no- 1871 of 2016, which have conclusively held that passing of Departmental Accounts Examination is not an essential requirement for grant of ACP/MACP, and further taking into account that the petitioner has already passed the said Departmental Account Examination finally way back in the year 2000, which has been missed to be taken note of by the respondents."*

**3. It is submitted by learned counsel for the petitioner**



that the petitioner joined the services on 04.08.1992, therefore, immediately after completion of 12 years of services he was entitled to get benefit of 1<sup>st</sup> MACP in the year 2004 but he has been granted benefit of 1<sup>st</sup> ACP vide order dated 04.01.2022 (Annexure 'P/1') with effect from 22.10.2021. Referring to the Annexure 'P/5' he further submits that the matter of the petitioner is squarely covered with the observation made by this Court in ***CWJC No. 21457/2018 (Omprakash Singh and others. vs. State of Bihar and others)*** and ***LPA No. 599/2015 (Ramadhar Thakur and others. vs. state of Bihar and others)*** wherein similarly situated persons were provided benefit of 1<sup>st</sup> ACP immediately after completion of their 12 years in the services, therefore, it is prayed by learned counsel for the petitioner that the respondent may be directed to consider the claim of the petitioner and also provide him benefit of 1<sup>st</sup> ACP from the year 2004 .

4. Referring to Annexure 'A' annexed with the counter affidavit it is submitted by learned counsel for the State that since the petitioner has passed his all five subjects in the year 2021 itself, therefore, he has been given benefit of 1<sup>st</sup> ACP with effect from the year of 2021 itself, therefore, he has been given benefit of 1<sup>st</sup> ACP with effect from 2021. Learned counsel for



the State on being asked by this Court is unable to produce any of the rule or order passed by the competent authority wherein it has been mentioned that for grant of benefit of 1<sup>st</sup> ACP clearance of exams of all subjects is condition precedent.

5. Considering the submissions made by both the parties, it would be appropriate to dispose of the petition giving liberty to the petitioner to make afresh representation before the concerned respondent within two weeks from today raising all grounds which he raised in the petition and in turn the concerned respondents/ authority is also directed to pass a reasoned order in accordance with relevant rules and laws and further taking into consideration the observation made by this Court in the cases of ***Omprakash Singh (supra)*** and ***Ramadhar Thakur (supra)***, the concerned respondent is further directed to pass such order as early as possible probably within 45 days from the date of submission of representation by the petitioner.

6. Hence, accordingly, this petition is disposed of.

(Arvind Singh Chandel , J)

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