

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19409 of 2024

Quadirul Hasan Khan S/o Zafirul Hasan Khan R/o of Mohalla- Quila Chauk, Brahmpura, P.S.- Brahmpura, P.O.- M.I.T., District- Muzaffarpur presently residing at Sikandar Ali Nagar Mittan Sarai Road, Hari Shah Chauk, Kolhua Paigambarpur, P.S.- Ahiyapur, District- Muzaffarpur was working as Head Clerk, National High Way Circle, Road Construction Department, Maripur, Muzaffarpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Department of Road Construction, Bihar, Patna.
2. The Chief Engineer, National Highway, North Division, Road Construction Department, Bihar, Patna.
3. The Superintending Engineer, National High Way Circle, Road Construction Department, Maripur, Muzaffarpur.
4. The Accountant General, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Manoj Kumar Manoj, Adv.
For the Respondent/s : Mr.Government Pleader 17

CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

2 07-01-2025 Heard learned counsel for the petitioner.

2. By way of this writ petition, the petitioner has assailed the order dated 25.04.2024 passed by Respondent No. 2 which is annexed as Annexure 'P-6' whereby and whereunder Respondent No. 2 passed order of cancellation of first time bond promotion given to the petitioner with effect from 01.06.1990 declaring the same as erroneous and further direction was issued to recover the differential amount from the petitioner which was wrongly given to him and further assailed the order dated 22.10.2024 (Annexure 'P 9') which has been passed by



Respondent No. 3 in compliance of the direction dated 25.04.2024.

3. It is submitted by learned counsel for the petitioner that the a time bound promotion has been granted to petitioner with effect from 01.06.1990 and after completion of his entire service the petitioner stood retired from service on 30.06.2020 as Head Clerk under the respondent authorities. Subsequently, on 31.07.2023, the Respondent No. 3 issued a letter bearing office order no.-26 wherein the name of the petitioner appeared with remark that the MACP has to be accorded from 09.08.1999 and is to be given to the petitioner with effect from 01.06.2004 and further grade pay of Rs. 4800/- in the MACP from 01.06.2010.

4. Since the office order no.-26 dated 31.07.2023 has not been complied with, therefore, in the first round of litigation, the petitioner filed a petition before this Court being CWJC No. 2837/2024 and accordingly, this Court vide its order dated 07.03.2024 disposed of the said petition giving liberty to the petitioner to make a representation before Respondent No. 2 i.e. Chief Engineer, Road Construction Department, Patna and Respondent No. 2 was further directed to consider and decide the same within a period of six weeks from the said date of order according to relevant rules and laws. Accordingly, a representation was made by the petitioner which has been decided by the respondent-authority vide order dated 25.04.2024 whereby the



respondent-authority cancelled the time bond promotion of the petitioner and the benefit given to him and directed to recover the amount from the retiral dues of the petitioner which has been wrongly given to him,

5. The contention of the learned counsel for the petitioner is that the matter of the petitioner is squarely covered with the judgment passed by a Full Bench of this Court on 28.06.2024 in case of **Kamalanand Thakur vs. The State of Bihar and Ors** in Civil Writ Jurisdiction Case No. 18727 of 2017 and other connected cases. He further submits that the matter is also squarely covered by the judgment passed by Hon'ble Supreme Court on 25.04.2023 in Civil Appeal arising out of SLP (c) Nos. 8219-8226 of 2019 in case of **Amresh Kumar Sinha vs. The State of Bihar**. It is further submitted that since the petitioner has already retired from the post of Class-III employee, therefore, in the light of the judgment passed by the Hon'ble Supreme Court in the case of **State of Punjab and others vs. Rafiq Masih (White Washer)** in **2015 AIR SCW 501**, the recovery is also not permissible from the petitioner.

6. Considering the submission made by learned counsel for the petitioner, it would be appropriate to dispose of the petition giving liberty to the petitioner to make a representation before Respondent No. 2/ competent authority raising all the grounds



which he raised in the petition and in turn the concerned authority may also be directed to consider and decide the same within a stipulated period, accordingly, the petition is disposed of. The petitioner is directed to firstly make a representation before the respondent/ competent authority within three weeks from today raising all grounds which he raised in this writ petition and in turn, the concerned authority is directed to consider the same and decide it in the light of the above judgments as mentioned **Kamlanand Thakur** (supra), **Amresh Kumar Sinha** (supra) and **State of Punjab and others vs. Rafiq Masih (White Washer)** (supra) and in accordance with other relevant rules and laws. It will be done within 60 days from the date of submission of said representation.

(Arvind Singh Chandel , J)

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