IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2088 of 2025

CNR No. BRHC010097222025

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Indra Kumar Lal Das son of Baldeo Lal Das, Shyam Complex, Flat No.301, Sancity Colony, Road No.2, Danapur, Police Station- Danapur, District-Patna.

... ... Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Water Resources Department, Govt. of Bihar, Patna.
2. The Additional Secretary, Water Resources Department, Govt. of Bihar, Patna.
3. The Chief Engineer, Sinchai Srijan, Water Resources Department, Bhagalpur.
4. The Executive Engineer, Irrigation Division, Jamui.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr.Santosh Kumar Verma
For the Respondent/s : Ms.Rashmi Jha, GA19
: Mr.Ashish, AC to GA19

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL ORDER

3 29-10-2026 Heard the learned counsel for the parties.

The present writ petition has been filed for the following relief(s):-

> *"I. For issuance of a writ in the nature of certiorari for setting aside office order vide Memo No.2639 dated 26.9.2024 (Annexure-7) passed by the Respondent No.3 by which claim of the petitioner for grant of Ist. ACP, 2nd ACP has been rejected and only 3rd ACP/MACP has been given but not w.e.f. due date on frivolous and illegal ground.*
>
> *II. For issuance of writ in the nature of mandamus directing the respondents to grant the benefits of 1st A.C.P. (Assured Career Progression) Schemes and 2nd ACP in the light of a Full Bench judgment of this Hon'ble Court passed in C.W.J.C.No.18727 of 2017 and its analogous cases in respect of which Rules came into force in 2003 and the scheme was made effective from 9.8.1999 and 3rd A.C.P./ M.A.C.P. Scheme (Modified Assured Career*

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Progression) Scheme in respect of which Rules came into force in 2010 and the scheme was made effective from 1.1.2009 and for consequential revision of his salary/pension and arrears with statutory interest and other benefits to which petitioner is legally entitled under the Rules and any other relief or reliefs be granted to the petitioner to which he is entitled."

3. A Full Bench of this Hon'ble Court in CWJC No. 18727 of 2017 along with other analogous cases vide order dated 28.06.2024 under similar circumstances has held as under;

"47. The effect of scheme, the Supreme Court went on, must be judged keeping in view the object and purport of the scheme. In that context, it was further held that the fulfillment of educational qualifications prescribed under the Recruitment Rules for the purposes of promotion are not necessary for non-functional in situ promotion like grant of ACP.

48. Thus, the questions stand answered as follows :-

(A.) Rule 157(3)[J] of the Bihar Board's Miscellaneous Rules, 1958, requiring passing of Departmental Accounts Examination for promotion, is not applicable in case of grant of A.C.P. benefits under the A.C.P. Rules, 2003;

(B.) Rule 157(3)[J] of the Bihar Board's Miscellaneous Rules, 1958 is confined to passing of preliminary examination/final examination in Accounts only for the purposes of confirmation, crossing the efficiency bar and promotion to Selection Grade only and not for regular promotion;

(C.) Rule 4(5) of the A.C.P. Rules, 2003 even though provides that the prescribed requirements and mode of sanction of financial progression under the scheme (A.C.P. scheme) shall be the same which are prescribed under the Recruitment/Service Rules for regular promotion against vacancies and if the Rules/Resolutions prescribe passing of Departmental Examination or any qualification for promotion, that shall also be an essential condition for sanction of benefit under the scheme will not affect the claim for grant of A.C.P. after completion of twelve/twenty

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> *four years of service for the reason that such financial progression under the A.C.P. scheme is only in situ promotion and nothing more. This is even notwithstanding any such requirement of passing any Departmental Examination or acquiring any educational qualification for promotion under the Service/Recruitment/Promotion Rules."*

4. Having regard to the law laid down by a Full Bench of this Hon'ble Court in the above mentioned case, the issue involved in the present writ petition is no longer *res integra*.

5. The stand of the authorities that the ACP/ MACP has been denied to the petitioner on the ground that the petitioner has not passed the qualifying exam.

6. Having regard to the same, the impugned order dated 26.09.2024 is set aside and the matter is remanded back to the authorities for passing orders afresh duly taking into effect the Full Bench judgment.

7. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

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