IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4490 of 2025

CNR No. BRHC010204192025

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Ram Vinay Kumar Son of Shri Ramesh Chandra Mouar Resident of Village-Ram Bagh Anand Nagar, P.S.-Ara Nagar, Ara, District-Bhojpur.

... ... Petitioner/s

Versus

1. The State of Bihar Bihar.
2. The Chief Secretary, Bihar, Patna.
3. Principal Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna.
4. The District Magistrate, Bhojpur , Ara.
5. Additional District Magistrate, Bhojpur, Ara.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Ravi Kumar, Adv.
For the Respondent/s : Mr. Pramod Kumar Verma,GP(31)
: Mr. Dhirendra Singh, Ac to GP31

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL ORDER

3 28-10-2026 Heard the learned counsel for the parties.

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

"1. That this is an application on behalf of petitioner for issuing the writ in the nature of certiorari for quashing the order dated 24.10.2024 contained in Memo No.- 1248 passed by Respondent No.-4 (D.M., Bhojpur) (Annexure-P/4) whereby and whereunder the petitioner's claim for grant of 1st MACP promotion from the due date 22.03.2015 has been rejected on ground of his non passing of departmental account examination which is totally in teeth of the full bench judgment of this Hon'ble High Court (Annexure-P/5) in which it has been held that passing of departmental account examination is not necessary for giving MACP Promotion in view of the fact that the fulfillment of

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educational qualification prescribed under the recruitment rules for the purposes of promotion are not necessary for non-functional in situ promotion like grant of ACP/MACP. As this scheme is only to relieve the frustration on account of stagnation and it does not involve actual grant of promotional post, but merely monetary benefits in the form of next higher grade.

It is further prayed that the respondent authority may be directed to give 1st MACP promotion to the petitioner from the due date 22.03.2015 on which he has become entitled for it after completing 10 years of his service and further grant all its consequential benefits."

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

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> *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 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 and also that the Vigilance Case is pending against him does not stand the legal scrutiny.

6. Having regard to the same, the impugned order dated 24.10.2024 to the extent of the petitioner whose name is at Sl. No. 21 is set aside. The authorities are directed to calculate the ACP/ MACP and grant the same to the petitioner as

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expeditiously as possible preferably within a period of four weeks from the date of receipt of a copy of this order.

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

(A. Abhishek Reddy, J)

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