

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11204 of 2025

Sanjula Devi Wife of Late Udaykant Jha, Resident of Village and P.O.-
Parariya, P.S.-Bihariganj, District-Madhepura, PIN-852101.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Irrigation Department, Govt. of Bihar, Patna.
2. The Engineer in Chief, Flood Control, Water Resources Department, Bihar, Patna.
3. The Chief Engineer, Flood Control, Water Resources Department, Birpur (Supaul).
4. The Superintending Engineer, Flood Control, Water Resources Department, Nirmali, Supaul.
5. The Executive Engineer, Flood Control and Water Management, Water Resources Department, West Embankment Division, Nirmali, Supaul.
6. The Accountant General (A and E), Bihar, Patna.
7. The District Magistrate, Supaul.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Sinha, Advocate
Ms. Anjali Kumari, Advocate
For the Respondent/s : Mr.Addl. Advocate General (05)

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

3 03-04-2026 Heard the parties.

2. This writ petition has been filed for grant of
following relief :-

*“1. That this is an application for
issuance of an appropriate writ/writs, order/orders
in the nature of MANDAMUS, directing and
commanding the respondents concerned to
discharge the statutory obligation to compute and
make payment of due ACP & MACP, increment, etc.
of her late husband who was working as Accounts
Clerk in the office of Executive Engineer, West*



Embankment Division, Normali, Supaul and died in harness on 05.05.2004 during election duty and after fixation of the salary of the late husband of the petitioner, accordingly the family pension of the petitioner may be revised accordingly after proper pay fixation of the husband of the petitioner.

3. Counsel for the petitioner submits that the husband of the petitioner died in harness on 05.05.2004 during election duty but has not been allowed benefit under ACP and MACP on the ground that the services of the petitioner was not confirmed and as also the petitioner had not passed the accounts examination during his life time.

4. On the other hand, counsel for the State by referring to the statement made in para 44 of the counter affidavit filed on behalf of the respondent No.1 to 5 submits that the petitioner has not been extended such benefit owing to his non-passing of Hindi Noting and drafting examination, while the petitioner has been allowed family pension from the date of his entitlement.

5. It is a very sorry state of affairs that a person having died during election duty and after his death when the petition has been filed by the widow-petitioner for grant of benefits of ACP, the State authorities being unmindful of the fact that the issues with regard to the requirement of passing of departmental enquiry has already been waived holding that such



requirement may not be made applicable in the case of personalized financial up-gradation and is considered personal promotion as it is not a regular, factual promotion, which does not involve a charge in functioning duties, designation or seniority rather a safety net to mitigate stagnation. Still the State Authorities, in referring the claim of such benefits, have taken frivolous plea of the deceased-employee having not passed Hindi, Noting and Drafting Examination and as also the Departmental examination while the requirement of passing such examination has already been waived even for regular promotion, once the employee attained age of 50 years and the petitioner as the time of death had already crossed the age of 50 years. This Court further records that while taking such ground, the authorities has completely been obligious of the fact that the said issues has also been put at rest by the Hon'ble Full Bench in the case of **Kamlanand Thakur vs. State of Bihar & Ors. (C.W.J.C. No. 18727 of 2017)** and as such the grounds taken by the State for non-consideration is wholly misconceived and the claim of the widow petitioner for benefits under ACP/MACP is legally admissible and sustainable in the eye of law.

6. Considering the fact that the Full Bench has already adjudicated this issue and the requirement of passing of Hindi



noting and drafting examination has not been made essential for grant of ACP/ MACP. Accordingly, this Court directs Executive Engineer to undertake the process for grant the benefit of ACP/MACP to the deceased employee, who is said to have died in harness on 05.05.2004 by considering his past services and on finding the deceased employee to be entitled to such benefits, necessary decision shall be taken within a period of six weeks from the date of representation and if it is found that the petitioner is entitled for such benefit, the same shall be extended within the same time and appropriate order for revision of family pension shall also be issued and sent to the office of Accountant General for carrying out necessary formalities for effecting appropriate revision in pension.

7. With the aforesaid observation/direction, this writ petition is disposed of.

(Ajit Kumar, J)

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