IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1186 of 2017

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1. Raghubansh Singh S/o Late Saryu Prasad Singh, Resident of Mohalla-New Yarpur, Police Station-Gardanibag, Post Office-G.P.O., District-Patna, and Retired as the Private Secretary, Agriculture Department, Bihar, Patna.
2. Subhash Chandra Das, S/o Late Upendra Narayan Das, Resident of Mohalla-403 Ram Vallav Kunj Appartment, CDA Colony North Shashtri Nagar Post Office-Police Station-Shastri Nagar,District-patna-800023, and Retired as the Private Secretary, Animal and Fisheries Resource Department, Bihar, Patna
3. Sunil Kumar Srivastava, S/o Late Jagdish Prasad Srivastava, Resident of Mohalla-New Yarpur, NY-36, Jhunjhun Mahal Road, Police Station-Gardanibag, Post Office- G.P.O., District-Patna Presently Posted as Principal Private Secretary, Home Special Department, Bihar, Patna
4. Dinesh Kumar Singh, S/o Late Ram Lakhan Singh Resident of Mohalla-Rama Lane, Shivpuri, P.O.-P.S.-Shastri Nagar, Dist.-Patna, and Retired as the Private Secretary, Minor Water Resources Department, Bihar, Patna
5. Anand Mohan Pandey, S/o Late Banshidhar Pandey, Resident of Mohalla-Anand Vihar, Post Office- Anishabad, Police Station-Gardanibagh, District-Patna, Presently Posted as Principal Private Secretary, Environment and Forest Department, Bihar, Patna

6.1. Kamlawati Devi Wife of Late Om Prakash Thakur Resident of Mohalla Anaith, Ward No. 43, Police Station Nawada, District Arrah, Bhojpur.

7. Binay Kumar Lal, S/o Late Ramdev Lal, Resident of Mohalla-Sai Residency, Flat No.-202, Road No.-4, Mitramandal Colony, Post Office-Anishabad, Police Station-Gardanibag, Patna, and Retired as the Private Secretary, Sugar Cane, Industry Department, Bihar, Patna
8. Rajballabh Prasad, S/o Late Puna Mahato, Resident of Mohalla/Village-Dhelva, Post Office-Dhelva, Police Station-Ram Krishna Nagar, District-Patna, and Retired as the Private Secretary, C.M. Secretariat, Bihar, Patna
9. Pyare Prasad, S/o Late Ramu Mahato, Resident of New Alkapuri, Road No.-5, House No.-3, Post Office-Anishabad, Police Station-Gardanibag, District-Patna, and Retired as the Private Secretary, Road Construction Department, Bihar, Patna

... ... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, Main Secretariat, Patna.
3. The Principal Secretary, Department of Finance, Government of Bihar, Main Secretariat, Bihar, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rupak Kumar, Advocate
		Mr. Vikrant Kumar, Advocate
For the Respondent/s	:	Dr. Anand Kumar, AC to AAG- 3

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

Date : 09-02-2026

Heard learned counsel for the parties.

2. The petitioners have filed the instant application for the following reliefs:

> "*i. For issuance of an appropriate Writ/Writs, direction/ directions in the nature of Certiorari or Writs, Order or Orders for quashing the Letter No.-2234 dated 11.02.2016 as well as consequential Order as contained in Memo No.-10187 dated 25.07.2016 to the extent by which in place of the initial date of appointment in the Clerical cadre, the date of joining on the post of Personal Assistant has been taken into consideration for the purposes of granting benefits of Third A.C.P., under the Modified Assured Career Progression Scheme (Hereinafter, called as MACP), contrary to the provisions of the Scheme and the*

decision of the Department of finance and in consequent thereto, further be pleased to direct the authorities to consider the promotion under the scheme, the Petitioners complete their 30 years of service from the date of initial appointment, strictly in terms of the decision taken by the Finance Department.

ii. For issuance of an appropriate Writ/Writs, direction/ directions in the nature of Mandamus or Writs, order or orders for holding an impartial enquiry against the erring officer for passing such order which is detrimental to the interest of the petitioners and also being violative of Principles of equality before law, in as much as, the impugned action is wholly arbitrary and unreasonable and in derogation of the Constitutional mandate.

iii. For further kind indulgence of this Hon'ble court to look into the matter and the concerned respondents may be directed to produce all connected records for perusal for passing an appropriate order.

iv. For any other

relief/reliefs which the Hon'ble court may grant in general interest checking these kinds of harassment to the government officials that may be deemed appropriate and necessary in this case."

3. It is the case of the petitioners that having been appointed as Steno-Typist, subsequently the petitioners having passed the limited departmental examination conducted by the BPSC, they entered the cadre of Personal Assistants.

4. It is submitted that those persons who could not clear the limited departmental examination, they also later entered the cadre of Personal Assistant when the post of Steno-Typist was upgraded and merged in the cadre of Personal Assistant.

5. The benefit under the ACP Scheme, 2003 which was affected from 9.8.1999 was given to those persons who had entered the cadre of Personal Assistants through merger with effect from their initial date of appointment as Steno-Typist. However, persons like the petitioners who had cleared the limited departmental examination conducted by the BPSC and entered the cadre of the Personal Assistant, the benefit was given to them counting from the date of their appointment as Personal Assistant and not their initial date of appointment as a

Steno-Typist. This led to the petitioners filing CWJC no. 13543 of 2007 which was allowed by this Court by its order dated 30.6.2011 (Annexure-3).

6. Relevant portion of the order dated 30.6.2011 is reproduced herein below for ready reference:

> "*2. Petitioners were appointed as Personal Assistant under office order bearing no. 6 dated 10.01.1986, Annexure-5 to the writ petition after they appeared and became successful in the limited departmental examination conducted by the B.P.S.C. Later their case was considered for grant of Assured Career Progression benefit under Bihar State Employees Condition of Service (Assured Career Progression Scheme) Rules, 2003 under office order bearing no. 311 dated 09.08.2007, Annexure-9 but they were allowed only second Assured Career progression benefit on completion of 24 years of service taking into account their date of appointment as Steno-Typist. Perusal of the said order,*

however, indicates that thereunder Personal Assistants who could not succeed in the limited departmental examination and were allowed to enter the cadre of the Personal Assistant through merger have been granted two A.C.P. benefits taking into account service rendered by them on the post of Steno-Typist. Aforesaid order was stayed by the State Government under order bearing No. 10659 dated 25.10.2007, Annexure-A to the counter affidavit. Under order bearing no. 10418 dated 19.10.2010, Annexure-14 stay of order no. 311 dated 09.08.2007, Annexure-9 has been vacated. It is submitted on behalf of the petitioner that aforesaid order dated 09.08.2007 suffers from the vice of arbitrariness as while granting A.C.P. benefits to the Personal Assistants who entered the cadre through merger both the benefits have been allowed taking into account the service rendered as Steno-Typist but in the case of the petitioners who have entered the

> *cadre of the Personal Assistant through limited departmental examination conducted by the B.P.S.C. the period rendered as Steno-Typist has not been taken into account and petitioners have been allowed only one A.C.P. benefit.*"

7. This Court by its order dated 30.6.2011 directed the competent authority to consider the case of the petitioner for grant of first ACP taking into account the service rendered by the petitioners as Steno-Typist/Stenographer prior to their appointment in the cadre of Personal Assistant.

8. Pursuant to the direction of this Court, the respondents came out with an order contained in memorandum dated 5.11.2012 (Annexure-4) giving the benefit of second ACP to the petitioners from the date of their initial appointment and counting the period that the petitioners had rendered their service as Steno-Typist.

9. It is submitted by learned counsel for the petitioner in reference to the impugned order dated 11.2.2006 (Annexure-6) that with the coming of the MACP scheme in the year 2010 with effect from 1.1.2009, once again the respondents are not giving them the benefit of the third ACP to be given

under the said scheme on completion of thirty years of service counting the service rendered by the petitioners as Steno-Typist and are counting the period from their date of appointment as Personal Assistant.

10. Learned counsel submits that the order dated 30.6.2011 (Annexed-3) having not only attained finality but having been complied with by the respondents, in implementation of the MACP Scheme, the respondents cannot revert back from their accepted stand.

11. The application was opposed by learned counsel appearing for the respondents. Referring to the counter affidavit filed on behalf of the respondent no. 2, learned counsel submitted that the stand of the petitioner for grant of the 3rd ACP under the MACP Scheme is contrary to the provisions of the scheme and norms as laid down by the Finance Department in its resolution dated 7566 dated 14.7.2010 communicated to the petitioners by letter dated 11.2.2016. The period of 10, 20 and 30 years under the MACP Scheme is to be calculated from the date of regular appointment of the petitioners. As such, it is submitted that the order rejecting the petitioners' request for grant of the 3rd ACP from the date of initial date of appointment in the clerical cadre has no merit and as such the writ

application be dismissed.

12. Heard learned counsel for the parties and perused the material on record.

13. The relevant facts in brief are that the petitioner who was appointed initially as a Steno-Typist, having passed the limited departmental examination conducted by the BPSC entered the cadre of the Personal Assistants.

14. It may be noted here that even those persons who could not enter the cadre of Personal Assistants, unlike the petitioners herein, subsequently as a result of merger of the post of Steno-Typist in the cadre of Personal Assistant, entered the cadre.

15. It is the case of the petitioner that those Steno-Typists who entered the cadre of Personal Assistant as a result of merger, the benefit under the ACP Scheme was granted to them counting their date of appointment from the initial date they were appointed as Steno-Typist. However, so far as persons like the petitioners are concerned, for the same benefit under the ACP Scheme, so far as they are concerned, their service was being counted by the respondents from the date of their entering the cadre of Personal Assistant after having passed the departmental examination conducted by the BPSC. The period

that they worked as a Steno-Typist was not being counted. This led to the petitioners moving this Court in C.W.J.C. no. 13543 of 2007 which came to be allowed by order dated 30.6.2011, relevant portion of which is reproduced hereinbelow for ready reference:

> "*3. Having heard counsel for the parties, I deem it appropriate to direct the competent authority of the State Government to consider the case of the petitioners for grant of 1st A.C.P. taking into account the service rendered as Steno-Typist/ Stenographer prior to their appointment in the cadre of Personal Assistant as has been done in the case of those Personal Assistants who have entered the cadre of Personal Assistant through merger. Necessary consideration in this regard be made by the competent authority, as early as possible, in any case within a period of three months from the date of receipt/production of a copy of this order.*"

16. It has not been contended by learned counsel for the respondents that any appeal was preferred against the order dated 30.6.2011 passed in C.W.J.C. no. 13543 of 2007.

17. For the purpose of grant of benefit under the ACP Scheme, this Court vide above referred order dated 30.6.2011 having given a categorical direction to the respondents to consider the case of the petitioners taking into account the service rendered as Steno-Typist/Stenographer prior to their appointment in the cadre of Personal Assistant and the said order having attained finality, in the opinion of the Court, the petitioners herein, in consideration of the case under the MACP Scheme for grant of benefit of the 3^{rd} ACP which is to be given on completion of 30 years, cannot be deprived of the above benefits.

18. In view of the facts and circumstances stated hereinabove, the order contained in Letter no. 2234 dated 11.2.2016 passed by the Under Secretary, General Administration Department, Bihar as well as the consequential order contained in Memo no. 10187 dated 25.7.2016 passed by the Under Secretary, General Administration Department, Bihar are both set aside.

19. The respondents are directed to take into consideration the case of the petitioners for grant of the benefit of 3^{rd} ACP under the MACP Scheme taking into account the service rendered by the petitioners as Steno-Typist.

20. The consequential benefits, as a result of the above, shall be paid to the petitioners by the Principal Secretary, General Administration Department, Government of Bihar/ respondent concerned within a period of four months from the date of receipt/production of a copy of this order.

(Partha Sarthy, J)

sauravkrsinha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	10.2.2026
Transmission Date	NA