

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.859 of 2024

In
Civil Writ Jurisdiction Case No.6371 of 2016

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Hari Shankar Mishra S/o Late Shatrughan Prasad Mishra @ Shatrughan Mishra resident of Village- Bahadurpur Patori, P.S.- Shahpur Patori, District- Samastipur.

... .. Appellant

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Dept. Govt. of Bihar.
2. The Principal Secretary, Revenue and Land Reforms Dept. Govt. of Bihar.
3. The Deputy Secretary, Revenue and Land Reforms Dept. Govt. of Bihar.
4. The Collector, Samastipur District.

... .. Respondents

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Appearance :

For the Appellant : Mr. Madan Prasad Singh No.2
For the Respondents : Mr. Addl. Advocate General (12)

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE RANJAN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

Date : 08-07-2026

Heard learned counsel for the parties.

2. The present *intra* court appeal has been preferred against the judgment and order dated 23.04.2024 passed by the learned Single in CWJC No.6371 of 2016, whereby the writ petition preferred by the writ petitioner came to be dismissed.

3. The writ petition was filed, inter alia seeking the following relief(s):-

"1. That this application is for a writ of mandamus commanding the respondents to grant the 3rd MACP



(Modified Assured Career Progression) w.e.f. 28.02.07 when the petitioner husband completed 30 years of service from 28.02.1977 with consequential monetary benefits or issue such appropriate writ/writs, direction/directions or pass such other order/orders which may be found just and proper."

4. The brief facts of the case are that the appellant was initially appointed as an *Amin* in the Department of Consolidation and joined service on 28.02.1977. Subsequently, he was transferred and absorbed in the Revenue Department as a Revenue Clerk on 07.10.1994 and retired from service on 31.07.2010.

5. The District Screening Committee, Samastipur, by Memo No.1283 dated 20.12.2012, granted the appellant the benefit of the first and second ACP with effect from 26.10.2008.

6. Aggrieved thereby, the appellant filed CWJC No.6371 of 2016. During the pendency of the writ petition, the District Screening Committee issued Memo No. 244 dated 16.03.2017 in relation to grant of ACP/MACP benefits.

7. Further, the District Screening Committee reconsidered the appellant's case in its meeting held on 25.01.2024 and communicated its decision vide Memo No.109 dated 27.01.2024.



8. The learned Single Judge, by judgment and order dated 23.04.2024 passed in CWJC No. 6371 of 2016, dismissed the writ petition, the operative portion of the said order reads as follows:

"3. Learned counsel for the State submits that in compliance of the order dated 04.01.2024, a meeting of District Screening Committee under the Chairmanship of the respondent no. 4, i.e., the Collector, Samastipur, was held on 25.01.2024 with regard to the third ACP of the petitioner and the propose regarding ACP and MACP along with Service Book of the petitioner was placed before the District Screening Committee and the Committee examined and considered the proposal and Service book of the petitioner and after perusal of the entire matter District Screening Committee has found that the benefit of first ACP and second ACP has already been provided to the petitioner with effect from 26.10.2008 and in light of the clause 04 of the letter no. 10936 dated 27.11.2014 of the Finance Department, Bihar, the District Screening Committee found that the petitioner is not entitled to get the third MACP. Apart from that, the District Screening Committee has already rejected the claim of the petitioner with regard to the third MACP in its meeting in its meeting dated 12.02.2017 itself and the petitioner has not challenged the proceeding of the District Screening Committee dated 25.01.2024 and after due consideration the Committee has found that the petitioner is not entitled for the third MACP.



4. In view of the aforesaid, the writ petition stands dismissed."

9. Learned counsel for the appellant submits that the learned Single Judge erred in dismissing the writ petition without adjudicating the appellant's substantive claim for grant of ACP/MACP benefits by counting his service from the date of his initial appointment as Amin, i.e., 28.02.1977.

10. It is further submitted that the appellant also filed a rejoinder bringing on record the decisions dated 16.03.2017 and 25.01.2024. It is, therefore, submitted that the learned Single Judge was not justified in dismissing the writ petition on the ground that the said decisions had not been challenged.

11. *Per contra*, learned counsel appearing for the respondents raises a preliminary objection regarding the maintainability of the present Letters Patent Appeal. It is submitted that the learned Single Judge dismissed the writ petition on the ground that the decisions of the District Screening Committee dated 16.03.2017 and 25.01.2024, which governed the appellant's claim, were not under challenge in the writ proceedings. Since no adjudication on the merits of the appellant's entitlement to ACP/MACP benefits was undertaken, the present appeal, in substance, seeks to challenge the subsequent decisions of the



District Screening Committee, which cannot be examined in an intra-court appeal arising out of the judgment dated 23.04.2024.

12. The limited issue which arises for consideration before this Court is as to Whether the learned Single Judge committed any error in dismissing the writ petition on the ground that the decision of the District Screening Committee dated 25.01.2024 was not under challenge, thereby declining to examine the appellant's claim for grant of ACP/MACP benefits.

13. Admittedly, during the pendency of the writ proceedings, the District Screening Committee passed its decision dated 25.01.2024, communicated vide Memo No.109 dated 27.01.2024, whereby the appellant's claim stood rejected. The said decision constituted the operative order governing the rights of the appellant. However, the appellant neither amended the writ petition nor sought any substantive relief for quashing the said decision. The contention that the interlocutory application or the rejoinder should be treated as a challenge to the said order is not borne out from the record.

14. It is well settled that relief cannot be granted against an order which is not specifically assailed before the Court. In ***Trojan & Co. v. RM. N.N. Nagappa Chettiar***, reported in ***(1953) 1 SCC 456***, the Hon'ble Supreme Court held that a Court cannot



travel beyond the pleadings or grant a relief in the absence of an appropriate challenge. The relevant part of the said order reads as follows:

“ 38. We are unable to uphold the view taken by the High Court on this point. It is well settled that the decision of a case cannot be based on grounds outside the pleadings of the parties and it is the case pleaded that has to be found. Without an amendment of the plaint the court was not entitled to grant the relief not asked for and no prayer was ever made to amend the plaint so as to incorporate in it an alternative case. The allegations on which the plaintiff claimed relief in respect of these shares are clear and emphatic. There was no suggestion made in the plaint or even when its amendment was sought at one stage that the plaintiff in the alternative was entitled to this amount on the ground of failure of consideration. That being so, we see no valid grounds for entertaining the plaintiff's claim as based on failure of consideration on the case pleaded by him. In disagreement with the courts below we hold that the plaintiff was wrongly granted a decree for the sum of Rs 6762-8-0 in respect of the Associated Cement shares in this suit. Accounts settled could only be reopened on proper allegations.”



15. This Court also independently finds that in the absence of any challenge to the operative decision dated 25.01.2024, no effective relief could have been granted by the learned Single Judge. Consequently, we find no reason to interfere with the impugned judgment and order.

16. Accordingly, the present appeal stands dismissed.

17. Pending application(s), if any, shall also stand disposed of.

(Sudhir Singh, J.)

(Ranjan Kumar Jha, J.)

*Gaurav Kumar,
Atul/-*

AFR/NAFR	NAFR
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