

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.811 of 2017

- 1.1. Kumari Arpana Wife of Late Rangesh Kumar Niral, Resident of Road Number 7, Neal Ramdev Mandir, Kankarbagh, Ashok Nagar, P.O. - Ashok Nagar, Distt. - Patna, Bihar - 800020.
2. Vijay Kumar son of Rajendra Prasad resident of village - Bharatpur, P.O. - Bharatpur, P.S. - Dulhinbazar, District - Patna Bihar.
3. Narayan Prasad Gupta son of Gyandhari Sao resident of village - Jalgobind, P.O. - Achuarah, P.S. - Barh, District - Patna Bihar.
4. Dev Nandan Prasad son of Yadu Nandan Prasad resident of village - Bhika Chak, P.O. - Anishabad, P.S. - Gardanibagh, District - Patna Bihar.
5. Dilip Kumar son of Shambhu Nath Singh resident of mohalla - B.V. College, Old Ware Tank, P.O. - B.V. College, P.S. - Airport, District - Patna Bihar.
6. Anita Kumari wife of Shri Anil Kumar resident of village - Daroga Kuwan, P.O. - Hilsa, P.S. - Hilsa, District - Nalanda Bihar.
7. Kalyani daughter of Sri Suresh Prasad resident of Satyadeep Bhawan, Jai Mahavir Colony, Mahendru, P.O. - Mahendru, P.S. - Sultanganj, District - Patna Bihar.
8. Jitendra Kumar son of Shree Suresh Prasad Gupta resident of Mohalla - Phulwarisharif Chauraha, P.O. - Phulwarisharif, P.S. - Phulwarisharif, District - Patna Bihar.
9. Rakesh Ranjan Jha son of Late Bishwa Nath Jha resident of village - Bhatra Ghat, P.O. - Bhatra Ghat, P.S. - Bisfi, District - Madhubani Bihar.
10. Satyendra Sharma son of Shree Ramashish Thakur resident of mohalla - Adarsh Vihar Colony, Rukunpura, Jagdeopath, P.O. - B.V. College, P.S. - Rupaspur, District - Patna Bihar.
11. Munna Kumar son of Kishori Mohan resident of mohalla - Rahmatganj, P.O. - Masaruhi, P.S. - Masaurhi, District - Patna Bihar.
12. Kumari Shail Sudha daughter of Shree Yugal Kishore resident of village - Ashiapore, P.O. - Malikpur, P.S. - Karai Parsurai, District - Nalanda Bihar.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, General Administrative Department, Government of Bihar, Patna.
3. The Principal Secretary, Finance Department, Government of Bihar, Patna.
4. The District Magistrate, Patna, District - Patna Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Raju Giri, Senior Advocate Mr. Harsh Vardhan, Advocate Mr. Harsh Raj, Advocate Mr. Chetan Anand, Advocate
For the Respondent/s	:	Mr. Sheoshankar Prasad-SC8



Mr. Anil Kumar AC to SC-8
Mr. Sanjay Kumar AC to SC-8

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
C.A.V. JUDGMENT

Date : 24-02-2026

The petitioners were appointed as Assistant-cum-Typist under various establishments of the State Government in the year 2003-06.

2. It is not in dispute that at the time of filing of the writ petition all the petitioners were posted as Upper Division Clerks. It would not be out of place to mention here that petitioner No.1 died during the pendency of the writ petition and she was substituted by his widow-Kumari Arpana vide order dated 05.08.2025.

3. The petitioners have invoked the constitutional writ jurisdiction of this Court under Article 226 of the Constitution of India for the following reliefs:-

“i. To issue an appropriate writ / order /direction, in the nature of certiorari for quashing the Order dated 16.10.2014 passed by the District Magistrate, Patna as contained in Memo No.2796 dated 17.10.2014 by which in regard to Petitioners Nos. 2, 3, 9 & 12 lower grade pay of Rs.2,800/- instead of Rs.4.200/- (pay band of Rs.9,300/- to Rs.34,800/-) has been



granted as 1 Modified Assured Career Progression (M.A.C.P.) as contained in Annexure-14.

ii. To issue an appropriate writ/order/direction, in the nature of mandamus commanding the Respondents to grant Rs. 4.200/- grade pay (pay band of Rs.9.300/- to Rs.34,800/-) to 131 the Petitioners as M.A.C.P., which is the next consecutive grade pay as per the Cadre Rules of the Petitioners by reading down the provisions stipulated in Clause-2 of Appendix-1 of M.A.C.P. Rules issued vide Letter No.7566 dated 14.07.2010 as contained in Annexure-3.

iii. Any other relief or reliefs for which the Petitioners are found to be entitled in the facts and circumstances of the case.”

4. It is the case of the petitioners that though they were appointed in the pay scale of Rs.1200/- to Rs.1800/-, but were placed in the lower corresponding pay scale of Rs.3050/- to Rs.4500/- instead of Rs.4000/- to Rs.6000/-. Some of the writ petitioners previously filed CWJC No.13577 of 2006 (Manish Kumar Pathak & Ors. Vs. The State of Bihar & Ors.). The said writ petition was disposed of vide order dated 17.12.2007 with the direction that the petitioners were directed to be appointed in the pay scale of Rs.4000/- to Rs.6000/- with consequential



benefits.

5. The State of Bihar contested the said writ petition upto the Hon'ble Supreme Court and the order passed by the Writ-Court was upheld even by the Hon'ble Supreme Court.

6. Further case of the petitioners is that in the year 2006 revised pay scale was fixed on the recommendation of 6th Central Pay Commission w.e.f. 01.01.2006. Consequent upon the said recommendation, the Finance Department, Government of Bihar issued a Resolution bearing Memo No.630 dated 21.01.2010 revising the pay scale of the employees in the State Government w.e.f. 01.01.2006.

7. It is mentioned in Annexure-3 of the said Resolution dated 21.01.2010 that if there is a post of Office Superintendent above the Head Clerks. The applicable scale of pay would be Rs.4500/- to Rs.7000/-. In the respective offices of the petitioners, there is a post of Office Superintendent above the Head Clerks. Hence the existing scale of pay of Rs.5000/- to Rs.8000/- would be applicable as the 1st MACP with Grade Pay of Rs.4200/- in Pay Band-2 (PB-2).

8. The MACP Scheme, 2010 was brought into existence by the Finance Department of the State Government w.e.f. 01.01.2009 vide Letter No.7566 dated 14.07.2010. In



terms of Clause-2 of Appendix-I of the Scheme, on completion of 10 years of service an employee would get the next Higher Grade pay as mentioned in Memo No.630 dated 21.01.2010 (Annexure-3). It is also mentioned that if there is no promotion in between two consecutive grades then the concerned employee would get the benefit of the next grade pay connected with his next promotion at the time of his regular promotion.

9. The Controlling Authority of the petitioners, namely, General Administrative Department, Government of Bihar vide Notification dated 23.03.2011 published a separate Cadre Rules known as the Bihar Collectorate Clerical Cadre (Appointment & Service Condition) Rules, 2011. In terms of the said Cadre Rules, the next consecutive grade pay of Upper Division Clerk was fixed at Rs.4200/- from Rs.2400/- in the Pay Band of Rs.9,300/- to Rs.34,800/-. The said Pay Band was notified by issuing a Corrigendum on 02.09.2013.

10. It is the case of the petitioners that in terms of Clause-2 of Appendix-I of MACP Rules on completion of 10 years of continuous service an employee is entitled to get 1st MACP in the next higher consecutive grade pay. If regular promotion is not possible in between two consecutive grade pay then an employee will have to wait for next higher grade pay till



he is promoted in regular course. The petitioners, therefore, claimed that they have separate Cadre Rules wherein it is provided that the next higher Grade Pay of Rs.2400/- would be Rs.4200/-. It is a consecutive grade pay and the petitioners being the Head Clerks they are eligible to next higher grade pay at the rate of Rs.4200/- in the Pay Band of Rs.9300-34800/-. However, the petitioners were granted Grade Pay of Rs.2800/-, which is not in existence in their Cadre Rules. The petitioners accordingly, submit that Clause-2 of Appendix-I of MACP Rules may be read to the extent as per as the petitioners are concerned that they are entitled to get Rs.4200/- as the 1st MACP, which is earmarked in their Cadre Rules and thereafter, consecutive grade pay. In Memo No.630 dated 21.01.2010 it is clearly provided that where there is Office Superintendent over the Head Clerk then the next existing pay scale of Rs.5000/- to Rs.8000/- and the corresponding Grade Pay would be of Rs.4200/- in the pay band of Rs.9,300/- to Rs.34,800/-.

11. The petitioners then referred to the decision of some other establishments where the Grade Pay was fixed as per Memo No.630 dated 21.01.2010. The petitioners, however, denied such Grade Pay by the District Magistrate, Patna according to the petitioners such denial of grade pay is illegal



and arbitrary on the part of the respondents. So is the instant writ petition.

12. The Principal Secretary, Finance Department, Government of Bihar being respondent No.3 has filed a counter affidavit against the instant writ petition challenging the claim of the petitioners for quashment of the order contained in Memo No.2796 dated 17.10.2014 passed by the District Magistrate, Patna by which the Lower Grade Pay of Rs.2800/- instead of Rs.4200/- has been granted to the petitioners towards the benefit of 1st MACP Scheme, 2010.

13. In the counter affidavit it is admitted that the petitioners were appointed on the post of Assistant-cum-Typist under the establishment of Collectorate, Patna between the year 2003 to 2006 through selection process conducted by the Bihar Staff Selection Commission. It is also admitted that they are now holding the post of Upper Division Clerk on completion of 10 years of their services, they claimed MACP in the promotional basic grade pay in the scale of Head Clerk i.e. in the Grade Pay of Rs.4200/- in place of Rs.2800/-.

14. It is urged by the respondent No.3 that under the ACP Rule 2003, the employees of the State Government was entitled to get two ACPs- 1st ACP, after completion of 12 years



of service and 2nd ACP after completion of 24 years of service in the next higher promotional pay scale and if the promotional avenue of post was not available then, the ACP would be granted in just next higher financial upgradation pay scale as per its scheduled but under MACP Scheme, 2010, a different process for financial upgradation has been laid down. In the scheme, there is a concept to provide three MACP after completion of 10 years, 20 years and 30 years of satisfactory service respectively. The MACP Schemes provides that next pay scale under MACP would not be higher promotional grade pay scale, but in next higher figure of pay scale mentioned in the scheduled only. This is the basic differences of concept of ACP and MACP. The existing unrevised pay scale of the Upper Division Clerk is Rs.4000-6000/- which was revised in the pay scale of PB-I Grade Pay Rs.2400/- w.e.f. 01.01.2006. The next higher figure of PB-I Grade Pay Rs.2400/- is PB-I Grade pay to Rs.2800/- for which the petitioners are entitled after completion of 10 years of service as per the MACP Scheme, 2010. Thus, the claim of the petitioners to grant pay scale in Grade Pay of Rs.4200/- is neither maintainable, nor sustainable at all and there is no infirmity or illegality in the impugned order under challenge.



15. With regard to the petitioner's claim that the similarly situated employees in the Districts of Madhepura, Begusarai, Madhubani and Siwan were granted grade pay scale of Rs.4200/- as benefit of 1st ACP. It is submitted on behalf of respondent No.3 that the Finance Department has already issued Letter No.9025 dated 26.09.2014 to restrict such fixation of wrong pay scale against the norms of M.A.C.P. Scheme, 2010 and if such wrong fixation is committed, the respondent Authority is entitled to recovered the said amount.

16. A separate counter affidavit has been filed on behalf of the District Magistrate, Patna on 08.07.2014 reiterating the same fact and adopting the similar stand as taken on behalf of the Principal Secretary, Finance Department, Government of Bihar, Patna.

17. This is all about the pleadings of the parties, this Court has heard the learned Senior Counsel on behalf of the petitioners and the learned Advocate for the State.

18. The issue as to whether an employee is entitled to get revised scale of pay under the MACP Scheme on financial upgradation to next grade pay or to grade pay of next promotional post has been conclusively decided by the Hon'ble Supreme Court in *Union of India and others Vs. M.V.*



Mohanan Nair, reported in ***(2020) 5 SCC 421***.

19. In the above-mentioned judgment, the Hon'ble Supreme Court had the occasion to make out comparison between ACP and MACP Scheme, for grant of financial upgradation under ACP Scheme, a screening committee was directed to be constituted for the purpose of processing the cases for grant of benefits under the ACP Scheme. In terms of Clause 6.2 of the ACP Scheme, the composition of the screening committee shall be the same as that of Departmental Promotion Committee (DPC) prescribed under the relevant recruitment/ service rules for regular promotion to the higher grade to which financial upgradation is to be granted. The requirement that the composition of the screening committee shall be the same as that of DPC, under the ACP Scheme, the consideration for financial upgradations are stringent and the government servant has to satisfy the norms for promotion. Fulfillment of normal promotional norms like benchmark, departmental examination, seniority-cum-fitness (in case of Group "D" employees) etc. These were the requirement for grant of financial upgradation under ACP Scheme.

20. On the contrary, under the MACP Scheme, financial upgradation is granted in the next higher grade pay in



the hierarchy of the recommended pay bands and grade pay as given in Section 1, Part A of the First Schedule to the CCS (Revised Pay) Rules, 2008. In the instant case, corresponding MACP Scheme, notified by the State Government in the year 2010 shall be applicable in place of CCS (Revised Pay) Rules, 2008. Under the MACP Scheme, the financial upgradation would be on non-functional basis subject to fitness in the hierarchy of grade pay. MACP Scheme contemplates merely placement on personal basis in the immediate higher grade pay/grant of financial benefits only and shall not amount to actual/functional promotion of the employees concerned. The MACP Scheme provides financial upgradation which shall be purely personal to the employees and shall have no relevance to the seniority position. As such there shall be no additional financial upgradation for the senior employees on the ground that the junior employee in the grade has got higher pay/higher grade pay under MACP Scheme.

21. In Paragraph Nos.20 and 21 of ***M.V. Mohanan Nair (supra)*** the Hon'ble Supreme Court held as hereunder:-

“20. As noted above, under the Sixth Pay Commission, scales of pay of various hierarchies, namely, lower division clerk and upper division Clerk are all placed in Pay Band I



i.e. Rs 5200-20200, of course with different grade pay. When the respondents are enjoying the benefit of the Sixth Pay Commission by getting higher pay scale, they should go by the Scheme in accepting what it gives on the financial upgradation; but the respondents are claiming the best of the benefits from both the ACP and MACP Schemes. The respondents have already been granted the beneficial pay upgradation as per the prevailing rules of MACP Scheme on the recommendation of the Sixth Central Pay Commission. The previous ACP Scheme was withdrawn and superseded by MACP Scheme with effect from 1-9-2008 based on the recommendation of the Sixth Central Pay Commission. Under MACP Scheme, the respondents can only claim immediate next grade pay and not the corresponding grade pay in promotional hierarchy.

21. As discussed earlier, in the ACP Scheme, there was no grade pay but only fixed pay scales and fixed increments were there. After the Sixth Central Pay Commission, various pay scales have been clubbed together and there is revised pay scale with corresponding pay bands and corresponding grade pay. As discussed earlier, the norms for grant of ACP Scheme were stringent and the government servant has to satisfy the norms for promotion. Whereas under the MACP Scheme, for financial upgradation, the rigour of



screening is diluted. For upgradation under the MACP Scheme, the benchmark of "good" would be applicable till the grade pay of Rs 6600 in Pay Band 3. The benchmark will be "very good" for financial upgradation to the grade pay of Rs 7600 and above."

22. The Hon'ble Supreme Court in the aforesaid judgment finally decided that the MACP Scheme would be operative to the next grade pay fixed for a particular cadre in the scheme. It is not in dispute that the petitioners were appointed in the pay scale of Rs.4000-5000/-. They were not appointed in the corresponding revised pay scale of Rs.1200-1800/-, i.e. Rs.4000-6000/-, but in the lower scale of Rs.3050-4590/- admissible to the Lower Division Clerk. Similar matter came up for consideration before this Court in CWJC No.13577 of 2006, this Court disposed of the writ petition vide order dated 17.12.2007 holding inter-alia that the Assistants-cum-Typists were appointed in the pay scale of Rs.4000-5000/-.

23. As per Annexure-3 of the MACP Scheme for Upper Division Clerk, the revised pay band was Rs.4000-6000/- with grade pay of Rs.2400/-. It was also stated that the said revised pay band would be Rs.5000-8000/- where there is an Office Superintendent above the Head Clerk and this scale will



apply, if not then Rs.4500-7000/-. In such case only, the grade pay would be Rs.4200/- not for the Head Clerk but for Upper Division Clerks.

24. For the reasons stated above and relying on the judgment in *M.V. Mohanan Nair’s (supra)* case, I do not find any merit in the instant writ petition and accordingly, the instant writ petition is dismissed on contest.

25. However, there shall be no order as to cost.

(Bibek Chaudhuri, J)

mdrashid/-

AFR/NAFR	NAFR
CAV DATE	17.02.2026
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