

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.17942 of 2013**

---

- 1.1. Sarswati Devi Widow of Late Jagdambi Rajak, Resident of Village - Khawa Chandra, Tola, P.O. Kiranpur, P.S. Medanichauki, Suraj Garha, Lakhisarai, Bihar - 811106.
- 1.2. Subhash Chandra Son of Late Jagdambi Rajak, Resident of Village - Khawa Chandra, Tola, P.O. Kiranpur, P.S. Medanichauki, Suraj Garha, Lakhisarai, Bihar - 811106.
- 1.3. Bibhash Chandra Son of Late Jagdambi Rajak, Resident of Village - Khawa Chandra, Tola, P.O. Kiranpur, P.S. Medanichauki, Suraj Garha, Lakhisarai, Bihar - 811106.
- 1.4. Prabhash Chandra Son of Late Jagdambi Rajak, Resident of Village - Khawa Chandra, Tola, P.O. Kiranpur, P.S. Medanichauki, Suraj Garha, Lakhisarai, Bihar - 811106.

... .. Petitioner/s

Versus

1. The State of Bihar, Department of Social Security Directorate, Government of Bihar, Patna
2. The Director, Department of Social Security Directorate, Government of Bihar, Patna
3. The District Magistrate, Lakhisarai
4. The Block Development Officer, Barahiya

... .. Respondent/s

---

**Appearance :**

For the Petitioners : Mr. Shailendra Kumar Singh, Advocate  
For the State : Mr. Sanjay Prasad, A.C. to A.A.G.4

---

**CORAM: HONOURABLE MR. JUSTICE RITESH KUMAR**  
**ORAL ORDER**

8      23-03-2026      Heard the parties.

2. The present writ petition has been filed for the following reliefs:

“1. For quashing the order dated 30.1.2013 and 31.1.2013 passed by the District Magistrate, Lakhisarai by which claim for benefits of assured carrier promotion (here after referred as ACP) to the petitioner has been rejected.



II For holding that the petitioner is entitled for the final and consequential benefit of ACP from the day when benefit accrued.”

3. The brief facts, giving rise to the present writ petition, are that the writ petitioner was appointed as an Accounts Clerk on 14.08.1981 in the pay scale of Rs.4000-6000/- and, accordingly, gave his joining in the office of the District Magistrate, Munger under the Department of Social Security. The deceased petitioner passed first half yearly departmental examination of Accounts in 2006, which was conducted on 24.11.2006, and the result thereof was declared on 02.08.2007. He completed 10 years of service on 14.08.1991 and thereafter he became entitled for first time bound promotion, but the same was not granted to him.

4. The learned counsel for the petitioners submits that in the year 1991, the time bound promotion scheme was abolished and the State of Bihar came out with Assured Career Progression Scheme (hereinafter called as ‘A.C.P.’). The deceased petitioner also became entitled for grant of the A.C.P. benefits, but the benefits of first A.C.P. was not granted to him, although he was entitled for the same w.e.f. 14.08.1991. Even the benefits of second A.C.P. was not granted to the deceased petitioner and he superannuated from service on 31.07.2010. The learned counsel for the petitioners further submits that during service period, in



view of the circular of the State Government dated 25.04.2007, the services of the deceased petitioner was merged from Accounts Clerk Cadre to the Senior Grade Clerk Cadre, but even then no consequential financial benefits were allowed to the deceased petitioner. The deceased petitioner filed several representations before the Collector-cum-District Magistrate, Lakhisarai and the B.D.O., Barahiya for grant of his promotional benefit and the A.C.P. benefits, but the same was not granted to him. Left with no option, the deceased petitioner filed C.W.J.C. No.12398 of 2012 before this Court and the same was disposed of by a Coordinate Bench of this Court vide order dated 30.08.2012, with a direction to the concerned authorities to decide the representation of the deceased petitioner, by a reasoned and speaking order within a period of two months from the date of receipt/production of a certified copy of the order. Pursuant thereto, the deceased petitioner filed a detailed representation before the District Magistrate, Lakhisarai on 08.09.2012. When no order was passed on the representation filed by the deceased petitioner, he was constrained to file contempt petition before this Court and during pendency of the contempt petition, the District Magistrate brought on record the order dated 30.01.2013, whereby the claim of the deceased petitioner for grant of A.C.P. benefits was rejected on the ground that the deceased petitioner has not cleared the



departmental examination and in view of the circular of the State Government, issued from time to time, he was not entitled for the same. The contempt petition filed by the petitioner bearing M.J.C. No.6711 of 2012 was disposed of vide order dated 02.05.2013, with a liberty to the deceased petitioner to challenge the order passed by the District Magistrate on 30.01.2013.

5. The learned counsel for the deceased petitioner further submits that the only ground, on which the claim of the deceased petitioner has been rejected by the District Magistrate, is that he had not passed the accounts paper II upto final level, which is mandatory as per Rule 157 of Board Miscellaneous Rules, 1958. It is also submitted by learned counsel for the deceased petitioner that the issue with regard to passing of the departmental exam is no more *res integra* in view of Full Bench judgment of this Court passed in C.W.J.C. No.18727 of 2017 (Kamlanand Thakur vs. The State of Bihar & Ors.) and its analogous cases, wherein vide judgment dated 28.06.2024, the Hon'ble Full Bench in paragraph no.48 answered the reference in the following terms:

“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 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.”

6. *Per contra*, the learned counsel for the State-Respondents submits that although no counter affidavit has been filed in the present case, despite opportunities given to him, but the fact remains that since the deceased petitioner did not pass the departmental examination, he was denied the benefits of A.C.P. and the order passed by the District Magistrate is self explanatory and there is no illegality in the same.



7. Having heard the learned counsel for the respective parties and after going through the records, this Court finds that the only ground on which the claim of the deceased petitioner for grant of A.C.P. benefits was rejected, was that he did not clear the Accounts paper II upto final level, which was mandatory as per Rule 157 of Board Miscellaneous Rules, 1958. Similar matter with regard to passing departmental examination for grant of A.C.P./M.A.C.P. benefits has already been decided by an Hon'ble Full Bench of this Court vide order dated 28.06.2024, passed in C.W.J.C. No.18727 of 2017 and its analogous cases, wherein the Hon'ble Full Bench has held that Rule 157(3)[J] of the Bihar Board's Miscellaneous Rules, 1958, requiring passing of departmental examination is not applicable under the A.C.P. Rules, 2003 and the said Rule 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. The Hon'ble Full Bench also considered Rule 4(5) of the A.C.P. Rules, 2003 and finally answered the reference in terms of the consideration made in paragraph no.48 of the judgment dated 28.06.2024.

8. Accordingly, on the basis of the discussion made above, this Court is of the opinion that the order dated 30.01.2013, passed by the District Magistrate, Lakhisarai is fit to be set aside



and is, accordingly, set aside. The respondent authorities are directed to grant the benefits of A.C.P. to the legal heirs of the deceased petitioner from the date, the deceased petitioner became entitled to, in view of the Full Bench judgment of this Court in the case of Kamlanand Thakur (supra), within a period of 12 weeks from the date of receipt/production of a copy of this order. The entire financial benefits accruing thereupon must be paid to the legal heirs of the deceased petitioner within the aforesaid period and if the same will not be paid to the legal heirs of the deceased petitioner then they would be entitled for interest @ 7% on the amount, if any, found payable, from the date of filing of the writ petition, till the date of its actual payment.

9. The writ petition stands allowed in the aforementioned terms.

10. Pending application(s), if any, shall also stands disposed of.

**(Ritesh Kumar, J.)**

*Sanjay/-*

|   |  |  |  |
|---|--|--|--|
| U |  |  |  |
|---|--|--|--|

