

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17707 of 2024

Priya Ranjan Pankaj Son of Late Kamleshwar Prasad Pankaj Resident of-
B.D.O. House, Behind Zenith Petrol Pump, Aghoriya Bazar, Musahri, P.S.-
Kaji Muhammadpur, District- Muzaffarpur, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Schedule Caste and Schedule Tribe Welfare Department, Government of Bihar at Patna.
2. The Secretary, SC and ST, Welfare Department, Government of Bihar at Patna.
3. The Additional Chief Secretary, SC and ST Welfare Department, Government of Bihar at Patna.
4. The Joint Secretary, Scheduled Caste and Scheduled Tribe Welfare Department, Govt. of Bihar, Patna.
5. The Deputy Secretary (A.C.P. Cell), Works and Administrative Reforms, Bihar Government, at Patna.
6. The Director SC and ST Welfare Department, Govt. of Bihar, Patna.
7. The District Welfare Officer, Motihari, East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Ms.Preety Kunwar, Adv.
For the Respondent/s : Mr.Standing Counsel (28)

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 23-07-2026 Heard learned counsel for the petitioner and learned
counsel for the State.

2. Learned counsel for the petitioner submits that the
present writ petition has been filed with the following reliefs:-

*a) The order dated 10-04-2024
(Annexure- P/5) contained in Memo. No.1817
dated 10-04-2024 passed by the Learned Joint
Secretary, Schedule Caste & Schedule Tribe
Welfare Department, Government of Bihar Patna*



may be set aside / quashed and the respondent no. 3 to 6, to give 2nd and 3rd "Assured Career Promotion or A.C.P & Modified Assured Career Progression or M.A.C.P." benefits and other legal dues with interest and penal interest forthwith of the Late father of the petitioner, for which his father was entitled, and cost of litigation, also may be awarded in favour of the petitioner, and

b) This Hon'ble court may further pleased to issue a direction to the respondents to pay all consequential monetary benefits, other monetary benefits which were due to the Late father of the petitioner as Your Lordships may deem fit and proper.

3. Learned counsel for the petitioner submits that the petitioner had earlier moved before this Hon'ble Court in CWJC No.13204 of 2023 in which vide order dated 12.02.2024, the writ petition was disposed of granting liberty to the petitioner for filing a representation before the Additional Chief Secretary, Scheduled Castes & Scheduled Tribe Welfare Department, Government of Bihar. He further submits that after filing of the same, a reasoned order has been passed, which is order impugned here contained in Memo No.1817 dated 10.04.2024 (Annexure-P/5).

4. Counsel further submits that at the time of passing the said order, the order passed by Hon'ble Full Bench of this



Court in case of **Kamlanand Thakur Vs. The State of Bihar & Ors.** in **CWJC No.18727 of 2017** with analogous cases reported in **2024 (4) BLJ 806**, has not been taken care of.

5. Counsel further submits that since Hon'ble Full Bench decision of this Court has completely been ignored by the Authorities concerned, therefore, the said order may be set aside and directed to consider the decision of Hon'ble Full Bench and then, decide this issue.

6. In response thereof, learned counsel for the State, on the other hand, submits that in the counter-affidavit, stand has been taken that since the father of the petitioner was not eligible at that very time according to then rule. It is due to this reason, no relief could be granted and the said order has been passed. But he fairly submits that the Hon'ble Full Bench decision is there in which no answer has come in the counter-affidavit.

8. In the light of the submissions made, this Court particularly, upon consideration of paragraph 48 of the said judgment (*i.e.*, **Kamlanand Thakur Vs. The State of Bihar & Ors.**) (*supra*), it is necessary to quote the same, which states as follows:-

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 Patna High Court CWJC No.18727 of 2017 dt. 28-06-2024 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, 12003 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 Patna High Court CWJC No.18727 of 2017 dt. 28-06-2024 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.

9. This Court finds that the impugned order is not sustainable in the eye of law and therefore, the said impugned



order contained in Memo No.1817 dated 10.04.2024 (Annexure-P/5) is hereby set aside and The Additional Chief Secretary, SC & ST Welfare Department, Government of Bihar (Respondent No.3) or any other concerned Authority is hereby directed to take decision with regard to father of the petitioner afresh considering the above mentioned Hon’ble Full Bench decision within 90 days from the date of production of this order.

10. With the aforesaid directions and observations, the present writ petition stands allowed.

(Dr. Anshuman, J)

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