

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1335 of 2023

In
Civil Writ Jurisdiction Case No.16977 of 2018

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1. The State of Bihar through the Principal Secretary, Home Department, Patna, Govt. of Bihar, Patna.
 2. The Principal Secretary, Finance, Government of Bihar, Patna.
 3. The Director General of Police, Patna, Bihar.
 4. The Additional Director General of Vigilance Investigation Bureau, Patna.

... .. Appellants

Versus

1. Nand Ji Singh, Son of Late Ram Kewal Singh, Resident of B-184, Police Colony, Anishabad, Police Station- Gardanibagh, District- Patna.
2. The Accountant General (A&E), Bihar, Patna.

... .. Respondent

Appearance :

For the Appellants : Mr. Prabhat Kumar, AC to GA-11
For the Respondent :

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE PRAVEEN KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

6 08-01-2026 The present *intra* Court appeal has been preferred against the order dated 28.08.2023, passed in CWJC No.16977 of 2018, whereby the learned Single Judge has been pleased to set aside the decision of the Departmental Promotion Committee and has remitted back the matter to the authorities to consider the case of respondent-petitioner afresh in accordance with law.

2. The brief facts giving rise to present appeal are that



the respondent-petitioner was initially appointed in the year 1983 on the post of Labour Inspector. He was further appointed on post of Sub-Inspector in the year 1985. He was promoted to the post of Deputy Superintendent of Police in August, 2010. Subsequently, he retired from the post of Deputy Superintendent on 31.12.2013. In the year 2018, for granting 3rd MACP to the respondent-petitioner, the Home Department, Government of Bihar requested the Annual Confidential Report (for brevity “ACR”) of the respondent-petitioner. The same was received and was examined by the Departmental Promotion Committee of the Home Department. The appellants after going through the ACR and records, did not recommend for granting of 3rd ACP to the respondent-petitioner, as he did not qualify the benchmark regarding grading in his ACRs.

3. Against the decision of the Departmental Promotion Committee, the respondent-petitioner preferred CWJC No.16977 of 2018, which was allowed, and the following directions were issued by the learned Single Judge. The relevant portion of the impugned judgment is reproduced as under:-

“5. Considering the fact that the Departmental Promotion Committee, in the misconceived manner, has considered the financial upgradation which is required to be paid to the petitioner on account of 3rd



*ACP/MACP on account of the stagnation on the post, has considered the same to be promotion, in spite of the fact that the law in this regard has already been settled and accordingly clarified by the Apex Court in number of reporters including the recent decision of the Apex Court in case of **Amresh Kumar Singh vs. State of Bihar** reported in (2023) SCC OnLine SC 496.*

6. The decision of the Departmental Promotion Committee, so far as, the petitioner is concerned, is held to be not in accordance with law and the same is set aside so far as the petitioner is concerned.

7. The petitioner, if so advised, may file a detailed representation before the Respondent No. 2- the Director General of Police, Patna, Bihar, who is directed to consider the representation of the petitioner in accordance with law considering the fact that the petitioner has not come for any promotion after his retirement rather he has claimed in the present writ petition for granting him financial benefit as a result of stagnation in salary after granting him benefit of 2nd ACP and 3rd MACP in accordance with law.”

4. The learned counsel for the appellant-State submits that the respondent did not meet the qualifying criteria as required in the Annual Confidential Report for granting of 3rd



MACP. The service reports of the respondent shows 'Very Good/Excellent' in the record for less than 36 months. In order to be considered for granting of 3rd MACP, his record should show 'Very Good/Excellent' for 36 months or more. Thus, the order of the learned Single Judge is fit to be set aside.

5. The learned counsel for the respondent submits that the learned Single Judge had rightly allowed the writ petition after going through submissions and materials on record, and therefore, the judgment of the learned Single Judge requires no interference.

6. Upon perusal of impugned judgment, materials on record and considering the submissions made on behalf of the appellant, it is apparent that the matter has been remitted back to the appellant-State to consider the representation of the respondents afresh. As such, it is clear that the appellants are at a liberty to consider and decide the representation of the respondent-petitioner in accordance with law.

7. Considering the aforesaid facts and the discussions made herein, we are of the considered opinion that there is no perversity in the order of the learned Single Judge.

8. The appellants are, therefore, directed to look into the representation of the respondent-petitioner and pass an



appropriate order in accordance with law within a period of eight weeks from date of receipt or production of a copy of this order. However, it is made clear that the observations made by the learned Single Judge shall not come in way, while deciding the representation afresh by the competent authorities in the matter of entitlement of petitioner regarding ACP/MACP.

9. In view of the aforesaid, the present appeal stands disposed of.

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

(Sudhir Singh, J.)

(Praveen Kumar, J.)

Gaurav Kumar/-

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