IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S). No. 2398 of 2026

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1. Narendra Kumar, aged about 62 years, son of Siyaram Singh, resident of Near Dwarika Hospital, P.O. & P.S. Tatisilwai, Dist. Ranchi, Jharkhand.
2. Rajeshwar Ram, aged about 61 years, son of late Baldev Ram, resident of vill. Ghushiar, P.O. Dariyapur, P.S. Sangrampur, Dist. Eas Champaran, Motihari, Bihar. ………. **Petitioners**

Versus

1. The State of Jharkhand through the Principal Secretary, Department of Planning Cum Finance, Government of Jharkhand, having its office at 1st Floor, Project Building, Dhurwa P.O. and P.S.- Dhurwa, Dist: Ranchi, Jharkhand;
2. The Principal Secretary, Department of Home, Prison and Disaster Management, Government of Jharkhand, having its office at 1st Floor, Project Building, Dhurwa P.O. and P.S.- Dhurwa, Dist: Ranchi, Jharkhand;
3. The Director General-cum-Inspector General of Police. Jharkhand, Ranchi, having its office at Police Headquarters, H.E.C. P.O. & P.S: Dhurwa, Dist: Ranchi, Jharkhand;
4. The Deputy Inspector General of Police, J.A.P, Jharkhand, Ranchi, having its office at Raja Rani Kothi, P.O. & P.S.- Doranda & Dist: Ranchi, Jharkhand;
5. The Commandant, JAP-10, Mahila Battalion, Hotwar, having its camp office at P.O & P.S- Hotwar, Dist- Ranchi, Jharkhand;
6. The Principal Accountant General (A&E) Bihar, Patna, having its office at Veerchand Patel Path, P.O., P.S., & Dist: Patna, Bihar;
7. The Principal Accountant General (A&E) Jharkhand, Ranchi, having its office at North Office Para, P.O. & P.S.- Doranda & Dist: Ranchi, Jharkhand; ………. **Respondents**

CORAM: **HON'BLE MR. JUSTICE DEEPAK ROSHAN**

For the Petitioners	:	Mr. Diwakar Upadhyay, Advocate Mr. Shivam Anand Pathak, Advocate
For the Respondents	:	Mr. Binit Chandra, AC to AAG-III Ms. Richa Sanchita, Advocate

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02/ 21.04.2026 The instant writ application has been preferred for following reliefs:

> *i. For issuance of an appropriate writ(s)/ order(s)/ direction(s) in the nature of 'certiorari' for quashing the Column (ग) as illustrated under Point No. 5 (x) of the Circular dated 21.05.2014 bearing Memo No. 1779/Vi. (Annexure-2) issued by the Finance Department, Govt. of Jharkhand, whereby and where under it has been stipulated that an employee shall be entitled for the benefits of ACP/MACP from the date of passing of the departmental examination.*

ii. For issuance of an appropriate writ, order or direction, in the nature of 'Certiorari' for quashing and setting aside the impugned decision contained in the minutes of meeting dated 15.10.2018 of the Central Selection Board-cum-Screening Committee (Annexure-1) insofar as it relates to the petitioners whose names figures at Sl. No. 84 and 89 respectively.

iii. For issuance of an appropriate writ, order or direction, in the nature of 'Certiorari for quashing and setting aside the recovery order dated 07.07.2025 bearing Memo No. 1501/Ra.Ka. qua Petitioner No.1 (Annexure-3 series), and the recovery order dated 26.11.2025 bearing Memo No. 2843/Ra.Ka qua Petitioner No. 2 (Annexure-3 Series). whereby a sum of Rs. 7,24,211/- and Rs 7,22,230/- have been recovered from the post retiral benefits of the petitioners.

iv. For issuance of an appropriate writ, order or direction, particularly in the nature of 'mandamus', commanding upon the respondents to restore the benefits of the 1st ACP granted to the petitioners on 09.08.1999 and the 2nd MACP granted with effect from 01.09.2008, as originally sanctioned, without any revision or denial based on the impugned decision.

v. For issuance of an appropriate writ, order or direction, particularly in the nature of 'mandamus', directing the respondents to grant the benefits of 3rd MACP to the Petitioner No.1 w.e.f 24.06.2016 and to the petitioner no.2 w.e.f 21.03.2016 i.e., upon completion of 30 years of continuous regular service counted from their respective initial dates of appointment (24.06.1986 for Petitioner No. 1 and 21.03.1986 for Petitioner No. 2).

vi. Further direct the respondents to forthwith refund the illegally recovered amounts of Rs. 7,24,211/- to Petitioner No. 1 and Rs. 7,22,230/- to Petitioner No. 2, along with interest at the rate of 12% per annum from the date of recovery till the date of actual payment.

vii. Further direct the respondents to recalculate and release all consequential retiral and pensionary benefits to the petitioners, including revised pension, gratuity, leave encashment, commutation value, and any other dues, by treating the original grants of 1st ACP, 2nd MACP, and the due 3rd MACP (as prayed above) as valid and subsisting, and to pay the arrears thereof with interest at the rate of 12% per annum from the due dates till actual payment.

2. The grievance of the petitioners is that the respondents have shifted the date of granting ACP benefits for the reasons that the petitioners have not passed the Hindi Noting and Drafting Examination and they shifted the same from the date of passing the said examination and they have also recovered the amount from the retiral benefits of the petitioners.

3. Learned counsel for the petitioners contended that on the one hand; the issue of passing the departmental examination itself is now not sustainable in view of the judgment of Hon'ble Apex Court in the case of *Amresh Kumar Singh & Ors. Vs. State of Bihar*

& Ors.[1] and on the other hand, the action of recovery is also bad in law.

4. Learned counsel for the respondents submits that though counter-affidavit has not been filed but certainly the issue with regard to passing of the departmental examination for getting the ACP/MACP benefit has been set at rest by the Hon'ble Apex Court in the case of *Amresh Kumar Singh (supra)*. He further could not defend the order of recovery from the retired employees.

5. Having heard learned counsel for the parties and after going through the writ application, it appears that the counter-affidavit is not required in this case in view of the fact that the issue involved is already set at rest in the case of *Amresh Kumar Singh (Supra)* wherein it has been held as under:

> ***"12.*** *It may be worth noting that the ACP scheme was enforced on the recommendation of the Fifth Central Pay Commission in context with Group C and D employees and it provided monetary benefit to the employees on completion of 12 years and 24 years of regular service who were not able to get promotion. The scheme as such was anti-stagnation and envisages merely placement of the employees in the higher pay scale for the grant of financial upgradation only without grant of actual promotion. The benefit of the ACP as such is like granting non-functional in situ promotion.*
> ***13.*** *At the cost of repetition, it must be borne in mind that the object of ACP is to avoid stagnation where no promotional avenues are available. The grant of ACP is not technically a grant of promotion but increase in the pay scale to the next higher grade retaining the employee on the post held by him. This is only to accord monetary benefit without disturbing any seniority or actually effectuating promotion to any higher post to avoid stagnation on a particular post or pay scale for a very long period.*
> ***14.*** *The object and purpose of ACP/MACP Scheme has been reiterated by this Court in Union of India v. C.R. Madhava Murthy, (2022) 6 SCC 183, as one to relieve the frustration on account of stagnation and it does not involve actual grant of promotional post but merely monetary benefits in the form of next higher grade subject to fulfilment of qualifications and eligibility criteria.*
> ***15.*** *In sum and substance, both ACP and MACP Schemes are schemes devised with the object of ensuring that the employees who are unable to avail of adequate promotional opportunities, get some relief in the form of financial benefits. Accordingly, the schemes provide for regular financial upgradation on completion of 12-24 years and 10-*

[1] 2023 SCC OnLine SC 496

20-30 years of service without promotion. They are incentive schemes for the employees who complete a particular period of service but without getting promotion for lack of promotional avenues. The effect of the schemes must be judged keeping in view the object and the purport of the scheme.

***16.** In Union of India v. G. Ranjanna reported in (2008) 14 SCC 721, the three-Judges Bench of this Court held that in situ promotions are made to remove stagnation of grade C and grade D employees by giving them certain monetary benefits.*

***17.** It was further observed that fulfilment of educational qualifications prescribed under the recruitment rules for the purposes of promotion are not necessary for non-functional in situ promotion. In other words, educational qualification required for the purposes of promotion is not necessary for the grant of in situ promotion, i.e., only for extending the monetary benefit where there are no promotional avenues and the employees are likely to be stagnated.*

***18.** In the aforesaid case, the employees were working as malis (Gardeners) and had claimed promotion in the higher pay scale. The Central Administrative Tribunal seized of the original applications observed that the employees cannot claim the scale of the next higher post by way of in situ promotion. On the matter being taken to the High Court by way of a writ petition, the contention of the employees was accepted and it was observed that the object of in situ promotion on non-functional posts, is to ensure that the group C and D employees are not stagnated in the same cadre/pay scale and that they should be provided with certain monetary benefits. Therefore, the rejection of the claim for such nonfunctional in situ promotion on the ground that the employees do not possess the necessary minimum qualification of matriculation as per the rules is not justified and renders the order erroneous in law. The view so taken by the Division Bench of the High Court was affirmed by this Court in the above referred Civil Appeals holding that the High Court has correctly analysed the object of the in situ promotion and fixation of pay scales to Group C and D employees to avoid stagnation.*

***19.** In view of the aforesaid legal position coupled with the fact that the qualification of graduation prescribed is for the promotion to the post of Accounts Officer rather than for the grant of in situ promotion on the non-functional post or for extending the benefit of ACP which is purely and simply in the nature of grant of monetary benefit without actually effectuating any promotion to any higher post, we are of the opinion that the judgment and order of the Division Bench of the High Court impugned in the appeals cannot be sustained. It is accordingly hereby set aside and that the judgment of the writ court dated 28.11.2017 is restored. The appellants are extended the benefit of ACP, as directed by the writ court.*

***20.** We have not considered it necessary to deal with the two cases on the basis of which the Single Judge has allowed the writ petitions and granted the benefit of the ACP to the appellants, as we have independently of those two decisions have considered and held that the appellants are entitled to*

> *financial upgradation under the ACP Scheme on completion of requisite regular service ignoring the higher qualification prescribed for the next higher post as grant of such benefit is not actually a promotion but only financial upgradation and if the higher qualification is insisted it would frustrate the purpose of the entire scheme."*

6. Therefore, it is held that petitioners are entitled for ACP/MACP benefits strictly from the date they are entitled for i.e. from the date of their respective appointment and passing of Hindi Noting and Drafting Examination is not required.

7. Consequently, Point No. 5 (x) of the Circular dated 21.05.2014 bearing Memo No. 1779/Vi. (Annexure-2); decision contained in the minutes of meeting dated 15.10.2018 of the Central Selection Board-cum-Screening Committee (Annexure-1) insofar as it relates to the petitioners; & recovery order dated 07.07.2025 bearing Memo No. 1501/Ra.Ka. qua Petitioner No.1 (Annexure-3 series), and the recovery order dated 26.11.2025 bearing Memo No. 2843/Ra.Ka qua Petitioner No. 2 (Annexure-3 Series) are quashed and set aside.

8. The respondents are directed to restore the benefits of the 1st ACP granted to the petitioners on 09.08.1999 and the 2nd MACP granted with effect from 01.09.2008, as originally sanctioned and pay the arrears accrued thereon. The respondents are further directed to refund the amount recovered, if any. The respondents are also directed to grant the benefits of 3rd MACP to the Petitioner No.1 w.e.f. 24.06.2016 and to the petitioner No.2 w.e.f. 21.03.2016 i.e., upon completion of 30 years of continuous regular service. The entire exercise shall be completed within a period of 12 weeks from the date of receipt/ production of a copy of this order.

9. In the result, the writ application stands allowed.

(Deepak Roshan, J.)

21st April, 2026
Kunal/-
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