

Serial No.06
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C). No. 261 of 2022

Date of Order :14.03.2023

Shri. Benedict W. Sangma

Vs. State of Meghalaya & Ors.

Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Judge.

Appearance:

For the Petitioner/Appellant(s) : Mr. A.G.Momin, Adv.

For the Respondent(s) : Ms. I.Lyngwa, GA for R 1-3.
Mr. K.Kharmawphlang, Adv. for R 4.

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| i) | Whether approved for reporting in Law journals etc: | Yes/No |
| ii) | Whether approved for publication in press: | Yes/No |

ORAL

1. The petitioner was appointed to the post of Deputy Librarian, Tura Government College on 10-06-1993, and after serving for nearly 30 years, superannuated on 20-09-2022, as per the submission of learned counsel for the petitioner.

2. The grievance as put forward is that the petitioner was never given the benefit of Assured Career Progression Scheme (ACPS) which was

notified vide Office Memorandum dated 22-02-2010, and which is now known as the Modified Assured Career Progression Scheme (MACPS) for the State Government Employees vide Notification dated 19-12-2017.

3. The contention of the petitioner is that, as he has been serving in the same post for over 27 years, he is entitled to the 1st and 2nd financial upgradation under the MACPS, and inspite of submitting repeated representations, the same has evoked no response.

4. Mr. A.G.Momin, learned counsel for the petitioner submits that as there was no scope for promotion and the same was a stand alone post, the writ petitioner cannot be denied of his legal rights and his legitimate expectation for financial upgradation as allowed by the MACPS.

5. The respondent No. 2 vide affidavit filed on behalf of the Director of Higher Technical Education, Meghalaya, has stated that the case of the petitioner could not be processed in view of the fact that the post of Deputy Librarian is a non-gazetted post, but the writ petitioner when appointed, the said post was notified as a gazetted post and the pay slip was issued by the Accountant General, Meghalaya. It is further stated in the affidavit that as the matter relating to ACPS and MACPS is regulated by the State Government, the same could not be processed as his pay was regulated by the Accountant General, Meghalaya.

6. Mr. K.Kharmawphlang, learned counsel for respondent No. 4 Accountant General, submits that as the grant of ACP and MACPS is strictly in the purview of the State Government, they have no role to play.

7. Having examined the materials on record and having heard the submissions of learned counsel for the parties, it appears that the only hiccup which has prevented the petitioner from being accorded the benefit of the ACPS and MACPS, is the fact that due to no fault of his, at the stage of his initial appointment, his post was mistakenly notified as a gazetted post and therefore, his pay came to be regulated by the Accountant General. As the clarification has been forthcoming through the affidavit that the post is not a gazetted post and that the scheme of ACPS and MACPS is created by the respondents for such posts, it is therefore directed as follows:

(i) The respondents shall initiate the process to correct the error which is apparent, and to place the petitioner's post in the correct position and further to regulate his pay as per the prevalent rules.

(ii) On the completion of such correction, the respondents shall complete the exercise of according the due benefits of the 1st and 2nd MACPS to the petitioner and also to process his pensionary benefits accordingly.

(iii) The same shall be completed as expeditiously as possible preferably within the period of four months from the date of this order.

8. With the above directions, writ petition stands closed and disposed of.

Judge

Meghalaya
14.03.2023
"Samantha PS"

