

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9612 of 2014

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Suman Prasad Singh S/o Late Bhikham Singh R/o Village Nargada, P.S. Krishnagarh, District Bhojpur, presently residing at Gorhana Road, Co-operative Colony, Near Alam Bagicha, P.S. Ara Nawada, District Bhojpur.

.... Petitioner/s

Versus

1. The Union of India through Union Home Secretary, New Delhi.
2. The Secretary Home, Government of India, New Delhi.
3. The Director General, Central Reserve Police Force, C.G.O. Complex, Lodhi Road, New Delhi.
4. The D.I.G., C.R.P.F., Group Centre, Hyderabad, Andhra Pradesh.
5. The Under Secretary, Ministry of Home Affairs (Police Finance), Government of India.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kr Singh, Adv with Tulika Singh, Adv

For the Respondent/s : Mr. Anjani Kumar Sharan C.G.C.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

2 18-03-2015 Heard learned counsel for the parties as with regard to the following relief, prayed in this writ application:-

“To issue an appropriate writ, order or direction commanding the respondents to grant benefit of A.C.P. under A.C.P. Scheme 1999.

To issue further an appropriate writ, order or direction commanding the respondents to pay arrears on account of the grant of A.C.P. to the petitioner without any delay.

To award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused to the petitioner.”

Learned counsel for the petitioner has submitted



that while similarly situated persons other than the petitioner has been granted the benefit of ACP, the petitioner stands denied of the benefit of such ACP as a result whereof the petitioner is still deprived in the matter of payment of his retirement benefit. According to Mr. Surendra Kumar Singh, learned counsel for the petitioner that if the petitioner is granted such benefit of ACP, at least the retirement benefit of the petitioner would be enhanced on account of revision of pay scale.

On the other hand respondents having filed their counter affidavit have explained the case of the petitioner in paragraph nos. 6, 7 and 8, which reads as follows:-

“That it is relevant to state here that the ACP Scheme was introduced by the government of India on the basis of the recommendations made by the 5th Central Pay Commission with a view to ameliorate the grievances of the Central Government Employees. The main objective of the scheme was to deal with the problem of genuine stagnation and hardship faced by the employees due to lack of adequate promotional avenues. As per the ACP scheme introduced by GOI vide letter dated 09.08.1999, Government servants are eligible for 02 financial benefits under ACP scheme on completion of 12/24 years of regular service subject to fulfillment of all promotional norms. The said ACP scheme was discontinued w.e.f. 31.08.2008 and replaced by MACP (Modified Assured Career Progression) Scheme w.e.f. 01.09.2008.

That the petitioner was appointed in CRPF as



constable/GD on 18.09.1972. Subsequently, promoted as L/NK, Naik, HC/GD and SI (GD) w.e.f 24.09.1990, 21.09.1990, originally promoted on 21.11.1994 and 27.10.2006 respectively. After attaining age of Superannuation, he retired from service w.e.f. 28.02.2011. Due to integration of post, rank between constable and Head Constable became non existent. Those who fulfills the eligibility criteria are being granted financial up-gradation under ACP scheme regularly, after completion 12/24 years subject to qualifying the promotional courses. Since the petitioner has been promoted to the rank of HC/GD w.e.f. 21.11.1994, accordingly, he was entitled for 2nd ACP w.e.f. 22.11.2006 whereas he has already been granted promotion in next higher rank i.e. SI /GD w.e.f; 27.10.2006. Hence, the petitioner is not entitled for financial up-gradation under ACP Scheme.

That it is further relevant to state her that as per Directorate General Order No. P.VII-52/2013-Estt dated 12.05.2014, 76 persons have been allowed 2nd financial up-gradation on completion of 24 years of regular service subject to fulfillment of all eligibility criteria even though they had qualified promotional courses later on. As per para 5 of the said letter it is also clarified that grant of 2nd financial up-gradation to 76 persons after completion of 24 years of regular service is limited to them only in compliance of the Court orders. However, MHA has extended this benefit to petitioners only, therefore, the order to maintain uniformity, a case is being moved to MHA to extend this benefit to all eligible personnel of the Force."

On the basis of the aforementioned stand taken by the respondents in the counter affidavit, learned counsel for the respondents has also submitted that since the petitioner had only got the benefit of promotion and thus higher pay scale, he would not be entitled for grant of ACP.

Mr. Singh, learned counsel for the petitioner



having filed no rejoinder to the counter affidavit is not in a position to controvert the aforementioned facts but he still maintains that the person like him having exactly similar service history were given such benefit on account of certain orders passed by Delhi High Court.

In absence of the order of the Delhi High Court, this Court would not like to make any comment on the stand of the respondents but if the petitioner was granted two promotions as has been explained in paragraph nos. 6, 7 and 8 of the counter affidavit that will never allow the petitioner to claim the benefit of ACP which is only by way of anti stagnation removal measure. The petitioner already getting the benefit of higher pay scale by way of promotion, this Court however would not like to shatter the hopes of the petitioner, a retired employee.

Thus, this Court can only give liberty to the petitioner to file a representation for explaining the entitlement of grant of his ACP but then it is made clear that the petitioner now will have no liberty to move this

Court again for the same cause of action as stand of the respondents in the counter affidavit as with regard to his being not granted ACP on account of two promotions can have no exception in law.

With the aforementioned observation and direction, this application is disposed of.

(Mihir Kumar Jha, J)

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