

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19190 of 2015

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Nagendra Pati Tripathy, Son of Late Nand Kishore Tripathy, resident of Village-Kuri, P.S.- Nokha, District- Rohtas, Presently residing at 62A/2 Munrika, Village New Delhi-110067 presently working on the post of Assistant Publicity Officer at F.H.Q. Sashastra Seema Bal, Ministry of Home affairs East Block- V, R.K. Puram New Delhi- 110066.

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, North Block, New Delhi.
2. The Director General, Sashastra Seema Bal East Block-V, R.K. Puram, New Delhi- 110066.
3. The Inspector General (Personnel) Sashastra Seema Bal East Block-V, R.K. Puram, New Delhi- 110066.
4. The Inspector General, FTR Headquarters, Sashastra Seema Bal Rukanpura, Bailey Road, Patna- 800014.
5. The Deputy Inspectors General, S.H.Q, Sashastra Seema Bal, Rasulpur Saidpur Wazid, Near S.K. M. College and Hospital, P.O.- Umanagar, Muzaffarpur.
6. The Director of Accounts, MHA, Sashastra Seema Bal East Block-V, R.K. Puram, New Delhi- 110066.
7. The Assistant Director (Establishment-II) Sashastra Seema Bal, East Block-V, R.K. Puram, New Delhi- 110066.
8. The Staff officer (Administration) Section Headquarters, Sashastra Seema Bal, Rasulpur Saidpur Wazid, Near S.K. M. College and Hospital, P.O.- Umanagar, Muzaffarpur.
9. The Section Officer, S.H.Q. Sashastra Seema Bal, Rasulpur Saidpur Wazid, Near S.K. M. College and Hospital, P.O.- Umanagar, Muzaffarpur.
10. Assistant Director (Personnel), Sashastra Seema Bal East Block-V, R.K. Puram, New Delhi- 110066.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kumar Singh, Advocate.
Mr. Ashwani Kumar Tiwary, Advocate.
Mr. Avinash Shekhar, Advocate.
For the Respondent/s : Mr. S.D Sanjay, Addl. Soc. Gen.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 14-07-2016

The order dated 08.09.2015 passed by the Central
Administrative Tribunal, Patna Bench, Patna (hereinafter referred to

as the “Tribunal”) in O.A. No. 605 of 2012, is the subject matter of challenge in the present writ petition.

The claim of the petitioner is for grant of financial up-gradation, under the Modified Assured Career Progression (MACP) Scheme, remained unsuccessful.

The Tribunal has elaborately discussed and distinguished between Assured Career Progression (ACP) Scheme and MACP Scheme and returned a finding that employees, who had completed 10 years of service after 1st September 2008, cannot claim parity with someone, who has completed more years of service (12 years) much earlier than him before 31st August, 2008. The findings recorded by the Tribunal are quoted hereinbelow:

“10. It is clear from the summary of the two schemes given in the aforesaid paragraphs that these are entirely different from each other, applicable in different contexts and different period, and it would be impermissible to claim the benefit of old ACP under the MACP. The key difference is that under the old ACP the financial upgradation was to be given in the next grade (pay scale) in the hierarchy, because that was the only way possible by which it could be implemented. However, in the MACP the financial upgradation has to be granted in the next higher Grade Pay in the Pay Band, because pursuant to 6th Pay Commission a whole new pay structure was created where a large number of earlier pay scales were compressed into very small number of wide pay bands, and differentiation between different ranks was signified by providing a number of Grade Pays in the same Pay Band.

12. The above table would show that the Government’s policy is very clear that MACP has to be in the next Grade Pay in the relevant Pay Band, whereas ACP was in the next grade (pay scale) in the

hierarchy. There is no question of any anomaly between the two categories of employees because they are not similarly placed. The underlying logic is also obvious, because in the case of MACP the upgradation is at shorter intervals and with eligibility norms much lower than that required for promotion, whereas in ACP the upgradation is at longer intervals and with eligibility norms same as that of promotion. It is quite obvious that an employee who completes 10 years of service after 01.09.2008 cannot claim parity with someone who completed more years of service (12 years) much earlier than him, i.e. before 31.08.2008).

14. The difference between the two schemes is also crucially linked to entirely different philosophy of pay structures post 01.01.2006 pursuant to 6th Pay Commission from earlier pay structures. As per CCS (Revised Pay) Rules, 2008, 36 distinct pay scales S-1 to S-34 were telescoped into the following Pay Bands:-

Sl. No.	Pay scales (pre 01.01.2006)	Pay Bands and Grade Pays (posts 01.01.2006)
1.	S-1 to S-3;S-2A	-15[(4400-7440) + GP 1300/1400/1600/1650]
2.	S-4 to S-8	PB-1[(5200-20200) + GP 1800/1900/2000/2400/2800]
3.	S-9 to S-15	PB-1[(3900-34800) + GP 4200/4600/4800/5400]
4.	New Scale Group 'A' entry and S-16 to S-23	PB-3[(15600-39100) + GP 5400/6600/7600]
5.	S-24 to S-29	PB-4[(37400-67000) + GP 8700/8900/10000]
6.	S-30	HAG
7.	S-31-32	HAG +
8.	S-33	Apex Scale
9.	S-34	Cabinet Secretary

In view of the finding recorded by the Tribunal with which we entirely agree, we do not find any ground to interfere with the

order passed by the Tribunal in the present writ petition. It is,
accordingly, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	21.07.2016
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