

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1391 of 2016

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Shailesh Kumar Singh Son of Late Rameshwar Prasad Singh, Resident of Village + P.O. Jamalpur, P.S. Kathaiya, District - Muzaffarpur, Bihar, presently posted as Assistant Director, Fisheries (Research) Fisheries research institute, Mithapur, Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Animal Husbandry and Fisheries Department, Government of Bihar, Patna.
2. The Principal Secretary, Department of Finance, Government of Bihar, Patna.
3. The Director, Fisheries Department, Government of Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Kaushik, Adv
For the Respondent/s	:	Mr. Alok Kumar Rahi, AC to GP-21

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT

Date : 29-08-2017

Heard Mr. Kumar Kaushik, learned counsel for the petitioner and Mr. Alok Kumar Rahi, AC to GP-21, for the State.

The writ petition was filed praying, inter alia, for a direction in the nature of mandamus commanding the respondent authorities of the State Government to grant the benefit of 2nd Assured Career Progression (hereinafter referred to as ‘the ACP’) under the Modified Assured Career Progression Scheme (hereinafter referred to as ‘the MACP Scheme’) with effect from 1.1.2009 together with consequential benefits.

The grievance of the petitioner stands noted in the



order of this Court recorded on 23.5.2017 and 27.7.2017 and basically is that whereas his juniors have been granted the benefits under 'the MACP Scheme' on completion of ten years of their promotion, the same principle has not been followed in the case of the petitioner, inasmuch as although the petitioner completed the stipulated period on 1.1.2009 but has been granted the benefit of 2nd MACP with effect from 11.12.2010 as manifest from the order bearing Memo No. 1560 dated 13.9.2013 enclosed at Annexure 8 to the writ petition. It is taking note of the grievance of the petitioner in the order(s) referred to above that answer was sought from the controlling department i.e. Director of Fisheries and while the matter was pending consideration before this Court that wisdom has dawned on the respondents to hold a meeting of the Screening Committee on 21.8.2017 bearing Memo No. 09 dated 22.8.2017 where practically they have accepted the grievance of the petitioner to modify the order granting MACP with effect from 1.1.2009 instead of 11.12.2010 but it carries a rider of seeking approval of the Finance Department.

In my opinion, the rider attached to the decision of the Screening Committee as found in its Memo No. 09 dated 22.8.2017 at Annexure 'A' of the supplementary counter



affidavit is unwarranted for there is nothing in the resolution which would show that there was any ambiguity crossing the minds of the respondents in the matter of grant of 2nd MACP to the petitioner with effect from 1.1.2009 or there was any circular of the Finance Department which leaves obstruction in the path of the petitioner for such relief. In absence of any of such condition requiring an endorsement by the Finance Department, once the respondents have accepted that the petitioner's 2nd MACP became due on 1.1.2009, the said order needs to be given its effect accordingly.

In result, in view of the resolution of the Screening Committee present at Annexure 'A', the Director, Fisheries shall provide the consequential benefits to the petitioner within a period of six weeks from the date of receipt/ production of a copy of this order.

The writ petition is allowed.

Surendra/-

(Jyoti Saran, J)

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.09.2017
Transmission Date	NA

