

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6284 of 2017

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1. The Union of India through the D.G. Cum Secretary, Department of Posts, Dak Bhawan, New Delhi.
 2. The Chief Postmaster General, Bihar Circle Patna
 3. The Chief Postmaster General, Northern Region, Muzaffarpur
 4. The Director of Accounts (Postal), Patna.
 5. The Superintendent of Post Offices, Siwan Division, Siwan.

.... Petitioner/s

Versus

Mahesh Prasad, S/o late Singhasan Prasad, Resident of Mohalla-Nai Basti, Mahadeva, near Archana General Store, P.O.-Siwan HO, P.S. Panchrukhi, District-Siwan.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anjani Kumar Sharan, ASG.

For the Respondent/s : Mr. J.K. Karn, Adv.

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 21-08-2017

Union of India assails the order dated 06.05.2016 passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A. No.667 of 2015. Since the O.A. application has been allowed, giving benefit of 3rd MACP and the stand of the Union of India was rejected by the Tribunal on a similar view taken by the Jodhpur Bench of CAT, the writ has been filed.

The sole question for consideration arises in the writ application is whether the stand of Union of India that the private respondent was given the benefit of promotion is a correct stand or



not and whether the so-called promotion granted to the private respondent is a promotion in the eye of law.

From appraisal of the pleadings and the order of the Central Administrative Tribunal what emerges is that the private respondent was given the benefit of financial up-gradation under the MACP Scheme or the stagnation scheme in vogue and no substantive promotion as such was extended to the private respondent.

It is made clear that any up-gradation in the pay-scale or pay under the stagnation scheme cannot be treated as a measure of promotion because such up-gradation is made in absence of promotion or in lieu of promotion since employee had not been given the benefit of promotion on substantive basis.

The stand of the Union of India both before the Tribunal as well as before this Court therefore is misplaced. This Court finds it rather astonishing that the Union of India and the authorities under the Union of India more so of the postal department do not understand the circular and the recommendation made by the Pay Revision Committees with regard to such stagnation schemes.

This Court finds that there was no substantive promotion granted to the private respondent. These are mere financial up-gradations, therefore, the Tribunal has not erred by giving direction upon the respondents to extend the benefit of 3rd MACP.



The counsel representing the private respondent has also indicated through the notification dated 28.05.2010, which has been brought on record as Annexure-A/1, that the 3rd MACP has also been extended to him. The corresponding notification thereafter is also on record as Annexure-A/2 and is dated 03.06.2010.

There is no merit in the writ application. It is required to be dismissed.

(Ajay Kumar Tripathi, J)

Arvind/-

(Rajeev Ranjan Prasad, J)

AFR/NAFR	
CAV DATE	
Uploading Date	24.08.2017
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