

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.17743 of 2016

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Jeebachh Mishra, S/o Late B.N. Mishra, resident of village and P.O.- Haripur,
Bakshi Tola, P.S.- Kaluahi, District- Madhubani.

.... Petitioner/s

Versus

1. The Union of India, through the Commissioner, Kendriya Vidyalaya Sangathan, 18, Industrial Area, Shaheed Jeet Singh Marg, New Delhi, 110016.
2. The Commissioner, Kendriya Vidyalaya Sangathan, 18, Industrial Area, Shaheed Jeet Singh Marg, New Delhi, 110016.
3. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Patna at Vijay Nagar, Rukunpura, Patna.
4. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Regional Office, Silchar, Assam.
5. The Deputy Commissioner, Kendriya Vidyalaya Sangathan, Captain N.M. GuptaSarani, Silchar, Assam.
6. The Principal, Kendriya Vidyalaya (No.1), Kunjban, Agartala-799006.
7. The Education Officer, Kendriya Vidyalaya Sangathan, 18, Industrial Area, Shaheed Jeet Singh Marg, New Delhi, 110016.

.... Respondent/s

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Appearance :

For the Petitioner	:	Mr. Dharendra Kumar Jha, Advocate Mr. Krishna Chandra Jha, Advocate
For the UOI	:	Mrs. Punam Kumari Singh, CGC
For the KVS	:	Mr. G.K. Agrawal, Advocate Mr. Kumar Ravish, Advocate

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CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI

and

HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 23-03-2017

Since the Central Administrative Tribunal, Patna Bench, Patna has dismissed OA 182 of 2014 vide its order dated 06.09.2016 refusing to give any relief of benefit of higher pay-scale under the ACP scheme, the present writ application has been filed by the petitioner. Petitioner was a Yoga teacher who had taken voluntary



retirement with effect from 31.03.2007. He has fought many rounds of litigation for higher pay-scale and corresponding revision in pension etc. right up till the Hon'ble Apex Court. To say the least, he has failed on every occasion but like a true Yogic Guru he refuses to give up in his effort to beget the benefit even though it is not available to him.

The Tribunal has dealt with the matter and the submissions and had this to say :

“3. The respondents have stated in their reply that the applicant has already has lost his claim for three-tier pay scale up to the Hon'ble Supreme Court. The ACP Scheme was approved and implemented for non-teaching employee and no teacher was ever given this benefit. Accordingly, this prayer was rejected. The respondents have further stated that the circular dated 09.06.2011 has no relevance in the present case. This circular was meant for those miscellaneous category teachers which did not have any promotional post. In the case of the applicant, his rejection was on the ground that he had not acquired higher qualification.

4. Head the parties and perused the documents.

5. It is clear from the scheme of financial upgradation prevalent in KVS that there were different facilities for teachers and non-teachers. For teachers, there was a scheme of three-tier scale based on qualification, prior to introduction of ACP on 09.08.1999. There was no such scheme for non-teachers. Therefore, when the



Central Government introduced a scheme for two financial upgradations called Assured Progression Scheme (ACP), the KVS decided to implement it for non-teachers and excluded the teachers from the scheme on the ground that for them, already a similar scheme was available. This is a reasonable differentiation based on intelligible criteria. Therefore, we do not find any flaw in the impugned order.

6. Now we come to the applicant's main argument that he should be given the benefit of circular dated 09.06.2011. It is clear from the subject and content of the circular that this was meant for miscellaneous category of teachers who did not have promotional avenue. We are satisfied by the argument of the respondents that the applicant had the avenue for three-tier scale which was denied to him for want of higher qualification. This matter has been settled up to the Hon'ble Supreme Court.

7. There is another view of the matter which is significant. The applicant had taken voluntary retirement from 31.03.2007. Any circular granting some relaxation can only have prospective effect. For example, the ACP too is also effective from the date of order i.e. 09.08.1999. Thus, the circular dated 09.06.2011 allowing grant of Senior Scale and Selection Scale without insisting on higher qualification can only be effective from the date of its issue i.e. 09.06.2011 and the applicant cannot derive any benefit from this."



This Court does not have to add anything more to what the Tribunal had had to say because the Tribunal has very clearly and correctly laid down the facts and the law. The only conclusion, which can be reached, is that the OA application of the petitioner was more at an effort to beget a benefit which he knew very well is not available to him.

The Tribunal’s order is not required to be interfered with as there is no infirmity therein.

Writ is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Rajesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	28.03.2017
Transmission Date	NA

