

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10637 of 2017

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1. The Union of India through the Secretary-cum-D.G., Department of Posts, Dak Bhawan, New Delhi.
 2. The Chief Postmaster General, Bihar Circle, Patna.
 3. The Director of Accounts (Postal), Patna, GPO Campus, Patna.
 4. The Sr. Accounts Officer/Pen-1, O/o the DA (P), Patna.
 5. The Superintendent of Post Offices, Aurangabad Division, Aurangabad.
 6. The Sr. Postmaster, Gaya Head Post Office, Gaya.
 7. The Postmaster Grade-II, Aurangabad Head Post Office, Aurangabad.

.... Petitioner/s

Versus

Sudarshan Sharma, Son of Late Ramchandra Sharma, Resident of Village- Mahesh Pasrasi, P.O.- Gorkatti, Via- Goh, District- Aurangabad at present residing at Gaya.

.... 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

Writ application is against the order dated 16.10.2015 passed by the Central Administrative Tribunal, Patna Bench, Patna in O.A. No.237 of 2015. The private respondent was the applicant before the CAT. The decision of the respondents i.e. the petitioners before this Court to effect recovery against so-called excess payment and the denial of entitlement of the private respondent of the benefit of 3rd MACP after two years of retirement of the private respondent became the cause of action before the Central Administrative Tribunal.

Not only the Tribunal found the decision of the



respondents not to grant or take away the benefit of 3rd financial up-gradation to be bad in law in light of the fact that no substantive promotion was ever earned by the private respondent, but even recovery after two years of retirement is not supported by declaration of law made by the Hon’ble Apex Court which was the case of State of Punjab & Others Vs. Rafique Masih. The relevant observations or culminations of the principles in the said case have been culled out and reproduced in the Tribunal’s decision and the said decision squarely applies to the facts of the present case.

In view of the above, the decision of the Tribunal upholding the grant of 3rd MACP as well as stopping the petitioners from affecting any recovery after two years of retirement cannot be said to be erroneous in any manner.

The writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

Arvind/-

(Rajeev Ranjan Prasad, J)

AFR/NAFR	
CAV DATE	
Uploading Date	22.08.2017
Transmission Date	

