

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21915 of 2013

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1. ARUN KUMAR SINGH MILKI SON OF LATE MADAN MOHAN SINGH RESIDENT OF MILKIGHAR, SONEPUR, P.O. AND P.S. - SONEPUR, DISTRICT - SARAN
 2. JAI PRAKASH SINGH SON OF LATE RAJESHWAR SINGH RESIDENT OF MOHALLA - RAGHUNATH TOLA, P.O. - ANISABAD, P.S. - GARDANIBAGH, PATNA
 3. MADHESHWER SHARMA SON OF LATE ARJUN PRASAD SHARMA RESIDENT OF C/O - SRI SUNIL KUMAR MADHAV NAGAR, JAHANABAD - KAKO ROAD, GALI NO. 3, P.S. AND TOWN - JEHANABAD, DISTRICT - JEHANABAD
 4. SHYAM NARAYAN SINGH SON OF LATE RAM DEVAN SINGH RESIDENT OF VILLAGE AND P.O. - DEODAHA, VIA - HAZARAT SAI, P.S. - DHANARUA, DISTRICT - PATNA

... .. Petitioner/s

Versus

1. The State Of Bihar.
2. Principal Secretary, Department Of Home (Police), Government Of Bihar, Old Secretariat, Patna
3. Director General Of Police, Bihar, Old Secretariat, Patna
4. Inspector General Of Police (Wireless), Police Wireless Building, Bailey Road, Patna
5. Superintendent Of Police (Wireless), Police Wireless Building (Tx Building), Bailey Road, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : MS. Anju Kumari @ Anju Narain
For the Respondent/s : Mr. RAJENDRA KR. JHA

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 26-02-2018

Heard learned counsel for the parties.

This petition under Article 226 of the Constitution of India has been filed for issuance of a direction to the respondents to grant 2nd and 3rd ACP/MACP to the petitioners since the same are due to them and have been granted to all other juniors and even to some retired employees but in spite of



several representations, it has not been granted and petitioners have superannuated from service.

Petitioners were appointed in the Bihar Police Radio Organization between 02.07.1974 to 12.11.1975. They all were appointed initially on the post of Literate Constable(Technical) similar to one Jai Shankar Prasad Roy, who was also appointed as Literate Constable (Technical) on 12.05.1975. The petitioners and many others passed the examination of prescribed grade-III course and result of which was declared on 08.01.1977. However, said Jai Shankar Prasad Roy passed the examination of Grade-III on 13.05.1977. The respondents notified promotion of petitioners and said Jai Shankar Prasad Roy and Gopal Singh to the post of A.S.I(T) from different dates in 1977 and 1979. Regular promotions to the post of S.I.(T) were given to petitioners and the aforesaid persons in subsequent order on their passing the Grade-II course and on fulfilling the other required criteria for promotion. It was subsequently found by the respondents that there was no sanctioned post of L.C.(T) in the police wireless organization and the basic sanctioned post was of A.S.I(T) and therefore considered the decision to upgrade the basic post of persons appointed in the organization for that of A.S.I(T) and the same will be treated as revised date



of promotion with condition that they will have to pass the prescribed Grade-III course. However, the office of DGP cum IG, Bihar Police, Patna issued notification of decision of upgrading initial post as of A.S.I(T) since there was no sanctioned post of L.C.(T) by notification dated 14.12.1996 and names of said Jai Shankar Prasad Roy and Gopal Singh and others were put with revised dates of promotion/upgradation to the post of A.S.I(T) from the date of their passing Grade-III course in the year 1977, but the same was not notified in case of petitioners as they were posted outside the headquarters, in field. Respondents issued tentative seniority list of S.I.(T) in the police wireless organization vide memo dated 30.01.2003 and the same contained the names of petitioners and name of said Jai Shankar Prasad Roy was below the names of the petitioners and name of Gopal Singh and Baidyanath Prasad was not in the list. In CWJC No. 9836 of 1999 and CWJC No. 7503 of 2000, the High Court affirmed the decision of upgradation of post as A.S.I(T). The petitioners and the said Gopal Singh and others also completed there prescribed grade-I course and they were considered for promotion to the post of Inspector (T) and were given promotion w.e.f. 06.12.2007, and the said notification also did not include the name of said Jai Shankar Prasad Roy



although he did not pass the prescribed Grade-I course. A decision was taken by the Government on 19.01.2010 to grant ACP to the employees in police wireless organization for which consent of the finance department was obtained and it was stated that grant of benefit of ACP from initial date of upgradation to the post of A.S.I(T) would be taken to be the date of direct appointment and prior service period will be not considered and it was conveyed that from the date of upgradation to the post of A.S.I(T) period of 12 years and 24 years under the ACP scheme will be counted for categories of S.I.(T) and Inspector including 1st ACP and 2nd ACP and the same was to be made applicable w.e.f. 09.08.1999, the date on which ACP scheme came into force. The petitioners were not granted benefit of ACP and when they came to know that their names were missing from such list and they were never considered for grant of ACP though their juniors like Gopal Singh and Jai Shankar Prasad Roy and Baidyanath Prasad, all were considered and granted benefit of ACP, petitioners submitted representation for grant of ACP before the competent authority. The petitioners were entitled for grant of second ACP w.e.f. 08.01.2001 on completion of 24 years of service and the same being granted to Gopal Singh and others but denied to



petitioners while petitioners matter was pending for consideration, the respondents considered the grant of 3rd ACP to many employees in wireless organization including Gopal Singh and Jai Shankar Prasad Roy w.e.f 01.01.2009 i.e the date MACP came into force on completion of their 30 years of service and even to retired persons who retired after 01.01.2009. Petitioners have superannuated from service and they are to be treated as initial appointee on the upgraded post of A.S.I(T) from 08.01.1977, the date on which they passed the Grade-III course, as granted to other similarly placed Gopal Singh and Jai Shankar Prasad Roy and others and thereafter grant for 2nd and 3rd ACP/MACP from due date of 08.01.2001 and 01.01.2009 as has been granted to similarly situated persons as stated above.

Respondents have filed their counter affidavit in which they have admitted that pursuant to order of Hon'ble Patna High Court passed in CWJC No. 4193 of 1989 dated 12.05.1994, the post of L.C. (T) was upgraded to the rank of A.S.I(T) w.e.f. date of their passing Grade-III technical examination and the date of upgradation was treated as the date of their first appointment. The same was reiterated by Hon'ble Patna High Court in the order dated 01.05.2006 passed in CWJC No. 9836 of 1999, as such petitioners are also entitled for similar benefit by



treating the post of constable literate (upgraded) to A.S.I(T) on passing Grade-III technical examination in 1977 and petitioners will be treated to have initially appointed as A.S.I(T) in 1977 and as per ACP/MACP scheme, they are entitled for three promotions under the MACP schemes as MACP scheme became effective from 01.01.2009 and petitioners have retired thereafter, they are entitled for three promotions counted from their initial appointment as A.S.I(T) in 1977. As similar benefits have been extended to Gopal Singh and Jai Shankar Prasad Roy and Baidyanath Prasad, it has been further submitted in the counter affidavit that the representation of the petitioners have been forwarded to the Police Headquarters vide office letter dated 02.06.2011 and subsequent reminder dated 18.01.2012 but order of Police Headquarters are awaited.

In view of the above facts, as stated in the counter affidavit of State, the I.G. Police Headquarter is directed to consider the representation of the petitioners as forwarded by the D.I.G(T) dated 02.06.2011 and 18.01.2012 treat the petitioners appointment on the upgraded post of A.S.I (T) as their initial appointment and grant them benefit of



ACP/MACP as has been granted to the similarly placed employees within three months from the date of receipt/production of copy of order of this Court.

With aforesaid observation and direction, the writ petition is disposed of.

(S. Kumar, J)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	06.03.2018
Transmission Date	N.A.

