

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.18035 of 2017

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Awadhesh Kumar Singh, Son of Late Tribhuvan Singh, resident of Village-
Ammaw, P.O.- Banipur, District- Saran (Chapra), Pin Code- 841403 (Bihar),
Presently residing at Village/ Mohallah- New Mubarakpur, Chandmari Road, P.O.-
Danapur Cantt, P.S.- Danapur, Town & District- Patna, Pin Code- 801503 (Bihar).

.... Petitioner/s

Versus

1. The Union of India through the Director General of Post, Ministry of
Communication & I.T., Department of Post, Dak Bhawan, New Delhi- 110001.
2. The Chief Post Master General, Bihar Circle, Patna.
3. The Director of Accounts (Postal), G.P.O. Campus, Patna- 800001.
4. The Chief Post Master, Patna G.P.O., Patna- 800001.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Munna Pd Dixit (M.P. Dixit), Adv.
Mr. S.K. Dixit, Adv.
Mr. Sanjay Kumar Choubey, Adv.
Mrs. Swastika, Adv.
Mr. Shalendra Kumar, Adv.
Mr. Sunil Kumar, Adv.

For the Respondent/s : Mr. S.D Sanjay (ADDL. SOC. GEN.)

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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: 09-01-2018

Heard learned counsel for the petitioner as well as
learned Additional Solicitor General representing the Union of



India.

The petitioner in the present writ application is challenging the order dated 12.02.2016 passed in O.A. No. 891 of 2012 by the Central Administrative Tribunal Patna Bench, Patna.

Since the O.A. has been dismissed and the Tribunal has refused to give any direction for grant of benefit of 3rd M.A.C.P. to the petitioner, the said decision has been assailed through this writ application.

The Tribunal after considering the various contentions has crystallized its decision in the following terms which emerges from paragraph-5 of the said decision. The same is reproduced herein for ready reference.

“Heard the parties and considered their submissions/arguments/documents. The facts/views which emerge are as below:-

(a) *It is clear from perusal of memo dated 29.04.1967 (AnnexureA/1) that the applicant was “appointed as Boy Messenger” and that his appointment was clearly against a vacant post and “on permanent basis.” As such, any submission of the applicant, contrary to the fact, is not tenable.*

(b) *It is also clear from perusal of documents at Annexure-A series, that the*



applicant was promoted to the next level of Postman/Village Postman on the basis of his success in a departmental examination. That being the case, the submissions of the applicant, contrary to this factual position, is not admissible. Further, it is clear from records that this upward movement of the applicant was a promotion.

(c) It is apparent from the O.M. dated 18.09.2009, relating to the MACP Scheme that, under para 13, that “No stepping up of pay in the pay band or grade would be admissible with regard to junior getting more pay than the senior on account of pay fixation under MACP Scheme. “That being that case, the prayer of the applicant that his pay should be fixed to ensure pay parity with junior officials is clearly not admissible. It is also noted that the juniors referred herein are not similarly placed as the applicant and entered service by a different route.

(d) That, in the above context, it clearly emerges that the submissions of the respondents are entirely correct. That the applicant has already benefited from three promotions. In other words, he has been promoted from Boy Messenger to Postman, from Postman to Postal Assistant and has received a financial upgradation/promotion under the TBOP



scheme after 16 years of regular service. As such, the claim of another financial upgradation/promotion is not admissible under the MACP Scheme.

(e) *That the applicant has lived with the benefits granted to him through-out his entire service as also after introduction of MACP Scheme and has raised this issue only after his retirement on 31.01.2011. Further, that the submissions and claims of the applicant in this OA clearly arise from a misconception about applicable rules/guidelines, if not from deliberate misinterpretation or obfuscation. Further, that this is clearly apparent from substantive documents and the explicit rules governing the MACP Scheme.”*

Submission of the counsel for the petitioner is that the Tribunal has committed wrong in reaching such a conclusion because in similar circumstances in matter which arose before the Madras High Court a copy of the order of the said High Court has been annexed as Annexure-2 benefit had been extended to the employee and the writ application of the Union of India was dismissed. The attention of this Court has been drawn to paragraph-7 of the said order which is at page 28.

The comparative analysis of the factual position of the petitioner's progression and that of a person before the Madras



High Court indicates that when this petitioner was granted benefit under the T.B.O.P. Scheme he had already been granted a higher pay scale of Rs. 4500/- to 7000/- way back on 01.06.2000 whereas in the case of Madras High Court the final up gradation even under M.A.C.P. did not reach Rs. 4200/-.

The petitioner desires a higher pay scale so that he can draw higher pension after post retirement and, therefore, he moved the Tribunal trying to create some kind of confusion as if his juniors have been given higher pay scale by extending the benefit of M.A.C.P. and the present petitioner has been discriminated.

The factual position is that this petitioner had earned benefit of promotion whereas the juniors continued to work on a post of postman and after having completed the required number of years of service benefit of M.A.C.P. was extended since the pay scale in terms of recommendation of 6th Pay Revision Committee had undergone a change they ended with a particular pay which may have been higher than the present petitioner but then the petitioner did not retire on the same post as his juniors and he had been a beneficiary of much higher pay scale right from 2000 itself, till his superannuation.

The Tribunal, therefore, has rightly come to the conclusion that the petitioner has no case for grant of benefit of



M.A.C.P. or upgradation of his pay at par with his juniors since he had earned three promotions.

The writ has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

Devendra/Arjun

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	12.01.2018
Transmission Date	NA

