

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13314 of 2008

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Rama Nand Sharma, son of Late Badri Prasad Singh, Resident of Sharma House,
Adars Colony, Road No.1, Khemnichak, P.O. New Jaganpura, P.S. Ram Kirishn
Nagar, Patna-27.

.... Petitioner/s

Versus

1. The Union of India.
2. The D.G.P. Border Security Force, C.G.O. Complex, Lodhi Road, Delhi.
3. The I.G. (Medical) Border Security Force, R.K. Puram, Delhi.
4. The D.I.G. Subsidiary Training Centre, Border Security Force, Chakur, Dist.
Latur, Maharashtra.
5. The Pay and Accounts Officer, Pension Division Madangir, New Delhi.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kumar Roy

For the Respondent/s : Mr. Awadesh Kr. Pandey, SCGC
Mr. Ravinder Kumar Sharma, CGC

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 25-01-2018

Heard learned counsel for the petitioner and counsel for
the State.

In this case, the petitioner is claiming for first and second
A.C.P. on the ground that during period of service in the B.S.F., he
was neither given promotion nor having been given the benefit of
ACP.

The petitioner was initially appointed on the post of
Nursing Assistant in the year 1968 in Army, later on, he was adjusted
in B.S.F. as Constable, Nursing Assistant, later on, after acquiring the
degree of Pharmacist, he gave technical resignation and was appointed
as A.S.I./Pharmacist (Unqualified) on 14.11.1980 and after



introduction of 5th Pay Revision Commission Report, the pay was enhanced to Rs. 4,000-6,000/-. The petitioner was further made ASI/Pharmacist (Qualified), his pay was fixed at Rs. 1350-2200 and, on the basis of 5th Pay Commission Report, he was given the pay scale of Rs. 4500-7000/-.

The petitioner was posted at B.S.F., Hazaribagh and superannuated from service on 31.7.2007 on attaining the age of superannuation. A complaint has been made to grant first and second A.C.P. in view of the introduction of scheme of A.C.P. vide G.I., Dept. of Per. & Trg., O.M. No. 35034/1/97-Estt. (D), dated the 9th August, 1999 which postulates, grant of two A.C.Ps., firstly after 12 years and secondly after 24 years. It will be relevant to quote Clause 5.1 and 5.2 of the aforesaid A.C.P. scheme which reads as follows:-

“5.1 Two financial aggradations under the ACP Scheme in the entire Government service career of an employee shall be counted against regular promotions (including in situ promotion and fast-track promotion availed through limited departmental competitive examination) availed from the grade in which an employee was appointed as a direct recruit. This shall mean that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If an employee has already got on regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service



under the ACP Scheme. In case two prior promotions on regular basis have already been received by an employees, no benefit under the ACP Scheme shall accrue to him;

5.2 *Residency periods (regular service) for grant of benefits under the ACP Scheme shall be counted from the grade in which an employee was appointed as a direct recruit.”*

From reading of the aforesaid scheme, every employees will be given two enhancement of scale of pay in the entire service career. It appears that the petitioner had entered in the service in the B.S.F. as a Constable, as per petitioner, he had technically resigned and there was a fresh appointment in 1980, firstly he was made A.S.I./Pharmacist (Unqualified) and, later on, he was made A.S.I./Pharmacist (Qualified) as per the petitioner is not the promotion to the petitioner. There is nothing on record to show as to whether the person who was appointed as Unqualified Pharmacist and later on made Qualified Pharmacist was promoted but, certainly there is some enhancement of scale of pay but, thereafter, he has not been given any enhancement of scale of pay in view of the terms of the A.C.P. Scheme, he is entitled to two advancements of the scale.

As the counter affidavit is silent on this point that the person who is made the Qualified A.S.I. from Unqualified A.S.I. will be treated to have been promoted but, admittedly, second A.C.P. has not been given to the petitioner.



In that view of the matter, this Court directs the I.G. (Medical) Border Security Force to examine the fact as whether the acceleration of the petitioner from the A.S.I. Pharmacist (Unqualified) to A.S.I. Pharmacist (Qualified) is a promotional event, if that is not so, in such circumstances, he will be entitled for the two A.C.Ps. but, if it is a promotional event, certainly the petitioner will be entitled to the 2nd A.C.P.

Let the I.G. (Medical) Border Security Force should decide the case and will take a decision within a period of eight weeks from the date of receipt/production of a copy of this order.

With the aforementioned observation and direction, this writ application is allowed to the extent indicated above.

(Shivaji Pandey, J)

Rishi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	21.02.2018
Transmission Date	NA

