

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3886 of 2019

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Shambhu Prasad S/o Late Jamuna Prasad R/o Vill- Sonpa, P.O.- Sonpa, P.S.-
Rajpur, Distt- Buxar

... .. Petitioner/s

Versus

1. The Union of India through Home Secretary, Home Department, Central Government, New Delhi
2. The Director General, Central Reserve of Police Force, Lodi Road, New Delhi
3. The Inspector General of Police, CRPF, Patna, Bihar
4. The Deputy Inspector General of Police CRPF Muzaffarpur
5. The Deputy Inspector General of Police, CRPF Mokama Ghat, Bihar

... .. Respondent/s

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Appearance :

For the Petitioner : Mr. Shashi Bhushan Kumar, Advocate.

Mr. Praveen Ranjanj, Advocate.

For the Respondents : Mr. Satyavrat Verma, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 01-03-2019

Heard the learned counsel for the petitioner and the State.

2. The petitioner has approached this Court for a direction to the respondent authorities to grant MACP to him even though his annual performance appraisal report has been below the benchmark.

3. It appears from the writ petition that the petitioner, while serving as Peon, in a Para Military Force, viz. CRPF became mentally ill and was diagnosed with psychiatric problems. For the aforesaid disability which actually was acquired by the petitioner during the period of his service, he was made to retire. The petitioner has not



challenged the aforesaid retirement before his age but only wants the authorities to consider his case for grant of financial progression which otherwise he would have got had he remained in service without the disability.

4. In support of the aforesaid prayer, the petitioner has referred to certain provisions of MACP rules of 2010 and Section 47 of the "Persons with disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995". Section 47 of the aforementioned Act merely enjoins that no person shall be discriminated in Government employment on account of acquisition of disability during service. One of the sub clauses of the aforesaid Section indicates that no promotion shall be denied to a person merely on the ground of his disability.

5. Mr. Satyavrat Verma, learned advocate appearing for the respondents has however submitted that under the CRPF rules, MACP or for that matter any financial progression could be given to an employee only on his being found eligible for promotion to the higher post. This is not something new or specific to a particular organization but is inherent in the basic principle governing financial progression under various rules framed in that regard under the provisions of Article 309 of the Constitution of India.



6. No doubt, for a person to be entitled to financial progression, he has to be eligible for promotion to a higher post; nonetheless in the present case, the petitioner could not avail of his services to be promoted to the higher post for the reason of his having acquired disability/mental disability during the course of employment.

7. The other argument of Mr. Verma, learned counsel appearing for the respondents is that not all disabilities would entitle an employee to avail of such benefits either under the CRPF Rules or under the Persons with disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

8. In any view of the matter, considering the fact that the representation of the petitioner made before the concerned authorities was acted upon and the petitioner was asked to further represent detailing his grievances, this Court deems it appropriate to direct the petitioner to make a fresh representation before the Deputy Inspector General of Police, CRPF, Muzaffarpur indicating that the mental disability/illness was acquired by him during the period that the petitioner had served and that prior to his acquiring such disability, his annual performance appraisal report was rated good. The aforesaid representation be made before the concerned respondent within a period of



four weeks from today. On receipt of such representation, the concerned respondent shall look into all the aspects of the matter including the rules governing the service conditions of an employee of the organization and other provisions and shall pass a reasoned order within a period of six weeks thereafter.

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

(Ashutosh Kumar, J)

krishna/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.03.2019
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