

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3174 of 2016

Dr. Md. Khalil Ansari Son of Late Abdul Latif Ansari, R/O Village-Dhangarha, P.S.- Baniyapur, District- Saran. Presently residing at A- 41, Gandhi Bihar, Anisabad, P.S.- Gardanibagh, Patna- 800002 ... Petitioner
Versus

1. The State Of Bihar through Principal Secretary, Department of Health Medical Education and Family Welfare, Government of Bihar, patna
2. The Principal Secretary, Department of Health Medical Education and Family Welfare, Govt. of Bihar, Patna
3. The Principal Secretary, Department of Finance, Govt. of Bihar, Patna.
4. The Accountant General (A and E), Bihar.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Vivek Anand Amritesh, Advocate & Mr.Nishant Kumar Jha, Advocate
For the State	:	Mr. Pankaj Kr. Singh, AC to GA 9
For the AG, Bihar	:	Mr. Ranjan Kumar, SC

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 04-04-2019 Heard learned counsel for the petitioner as well as
learned counsel for the respondents.

The petitioner seeks a direction for consideration and grant of benefits of the third Assured Career Progression (ACP).

It is submitted by learned counsel for the petitioner that the petitioner was under suspension from 11.5.2005 till 2009. In 2010 punishment of compulsory retirement was inflicted on the petitioner. His submission is that the petitioner completed thirty years of service and he became entitled to grant of benefits of the third ACP in the year 2002. Such submission is made by the petitioner on the basis that he had come into



service in the year 1972.

Respondents, as per the averments made in the counter affidavit filed by the State and the Accountant General, Bihar, have considered petitioner to be in service on the basis of his joining date as 1.4.1979. On that basis they have taken a stand that since the petitioner became eligible for grant of third ACP in 2009 and at that point of time departmental proceedings were being conducted against the petitioner on the basis of the charge memo issued in the year 2005, which culminated in award of punishment to the petitioner, he cannot be permitted to claim any benefit on account of third ACP.

It is submitted by learned counsel for the petitioner that the scheme of Modified Assured Career Progression (MACP) came on 1.1.2009 and as such for the reasons indicated in the counter affidavit he would be entitled to the benefits of the third MACP. Petitioner's counsel submits that the petitioner would be approaching the Principal Secretary, Department of Health Medical Education and Family Welfare, Govt. of Bihar, Patna (respondent no.2) by filing a representation so as to establish his claim for completing 30 years in service in the year 2002 by demonstrating that his joining in the service was on 5.10.1972.



In view of said submission, the issue is to be decided by respondent no.2. If the petitioner files a representation making out his claim as above, respondent no.2 would be obliged to consider the same expeditiously without any undue delay.

Writ petition stands disposed of.

(Madhuresh Prasad, J)

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