

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5607 of 2016

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Shailendra Kumar Singh S/o Late Anirudh Prasad Singh resident of 'Singh House' mohalla - Sheopuri, P.S. - Shastri Nagar, District/Town - Patna and at present posted as Head Clerk in the office of Sub Divisional Officer, Danapur, Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Collector, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Mukesh Prasad Singh
For the Respondent/s : Mr.Jitendra Kumar, AC to AAG 11

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 14-11-2019 Heard counsel for the petitioner and counsel for the respondents-State.

Petitioner's claim in the instant proceedings is for grant of 3rd MACP with effect from 01.09.2011 i.e. when he completed 30 years of regular service. Petitioner claims to have joined on 01.09.1981. The claim of the petitioner was rejected by the District Screening Committee in its meeting dated 15.07.2016 by assigning reasons that criminal proceedings arising out of Shastrinagar P.S. Case no. 322/2014 dated 31.05.2014 was pending. In respect of the criminal case, departmental proceedings have also been instituted against the petitioner as per stand of the respondents. On account of pendency of these two proceedings petitioner's claim for benefit of 3rd MACP with effect from 01.09.2011 has been rejected.



Counsel for the petitioner submits that criminal proceedings as per order of the District Screening Committee itself was instituted on 31.05.2014 i.e. much after petitioner was entitled to be considered and granted 3rd MACP benefit with effect from 01.09.2011.

Since departmental proceedings was also in respect of same allegation, it is axiomatic that the same can be only subsequent to 31.05.2014.

In the circumstance, pendency of the criminal case and departmental proceedings which have come into existence much after petitioner's entitlement to his claim for 3rd MACP cannot be made basis of denying him benefit of 3rd MACP with effect from 01.09.2011.

Counsel for the State submits that petitioner's claim was examined by the District Screening Committee and reasons had been assigned in the meeting dated 15.07.2016.

Law in this regard is settled as per decision of the apex court in the case of **Union of India & ors vs. K.V. Jankiraman & ors reported in (1991) 4 SCC 109**. Date of submission of charge memo in departmental proceedings; or submission of the charge sheet in criminal case is the date on which proceedings are said to have commenced. Prior thereto



petitioner could not have been deprived of consideration for benefit under 3rd MACP. The reasons assigned by the State authorities regarding pendency of the criminal case and departmental proceedings, both of which come into existence on or after 31.05.2014, thus cannot be sustained. The proceeding of the District Screening Committee therefore, to the extent it rejects claim of the petitioner is hereby quashed. Authority should consider the petitioner's claim without raising objection of pendency of the criminal proceedings arising out of Shastrinagar P.S. Case no. 322/2014 or departmental proceedings in respect of allegation in the said criminal case.

Respondent no.2 (Collector, Patna) should take final decision on the claim of the petitioner and pay dues admissible to the petitioner in accordance with law by reasoned and speaking order and also supply details of calculation, if dues are found admissible. Let entire exercise be completed within three months from the date of receipt/production of a copy of this order.

Writ petition stands allowed with the aforesaid directions.

s.hassan/-

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(Madhuresh Prasad, J)

