

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5958 of 2015

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Ranjan Kumar Shukla son of Late Shiv Shankar Shukla, resident of village Tardhia, P.S.- Jagdishpur, district- Bhagalpur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The District Magistrate, Banka.
3. The Dy. Collector, Establishment Banka.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shivendra Kishore, Sr. Advocate
For the Respondent/s : Mr. Madhukar Mishra, AC to SC 16

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 05-03-2019

Petitioner has filed instant writ petition claiming 3rd MACP. The brief background of the case is that on the basis of compassionate appointment the District Compassionate Appointment Committee under the District Magistrate, Munger appointed the petitioner as Accounts Clerk on 15.09.1981. Admittedly the petitioner was subsequently transferred on Administrative grounds and his services were handed over to the Collectorate at Banka. Petitioner has been allowed first ACP with effect from 09.08. 1999 and second ACP with effect from 15.09.2005 with the consequential benefits and arrears.

2. The petitioner claims that upon completion of the requisite qualifying 33 years of service, he is entitled for grant of benefits under 3rd MACP. The claim of the petitioner was



raised by various representations which have been brought on record by the writ petitioner.

3. The State has filed a counter affidavit. In the counter affidavit they have taken a stand that from the service book of the petitioner it is clear that petitioner's date of birth has been noted 20.04.1964 and as such on the date of his appointment i.e., 15.09.1981 he was only 17 years 4 months and 25 days which is less than the minimum age of 18 years for appointment in government service. The District Magistrate, Banka has therefore, made quires from the District Magistrate, Munger as to under what circumstances the District Compassionate Appointment Committee had appointed the petitioner when he was about seven months short of the age of 18 years. The response of the District Magistrate, Munger has still not been received.

4. The petitioner's counsel however, submits that the District Compassionate Committee under the District Magistrate, Munger was the competent Authority for considering petitioner's claim for compassionate appointment in the year 1981. It is submitted that after due deliberation by the competent authority petitioner's appointment was done in 1981 and that whether the petitioner's appointment has been



done after giving relaxation under the provisions contained in the Bihar Service Code or not is an issue which is still pending consideration or being looked into by the authorities. The petitioner's counsel submits that though he is not in a position to say whether actually any relaxation was granted in his favour but the facts give rise to presumption in his favour since for such a long time nobody has questioned his appointment made by the District Compassionate Committee which was also competent to grant relaxation to the petitioner.

5. This Court would take notice of the fact that service book records the correct date of birth of the petitioner and there is no allegation that petitioner has misrepresented his date of birth. Till date there is nothing on record to show that the petitioner was appointed on the basis of any misrepresentation or illegality.

6. Whether petitioner has been appointed on compassionate appointment by the District Compassionate Selection Committee by giving relaxation in age criteria or not is still being enquired by the District Magistrate, Banka with the District Magistrate, Munger.

7. Merely on some doubt the petitioner cannot be deprived of his benefits under 3rd MPCP.



8. The petitioner’s claim for 3rd MACP should be considered by the authority and if there is no other impediment in the grant of same then the same should be granted to the petitioner within a period of three months from the date of receipt/production of a copy of this order.

9. Writ petition is therefore, allowed.

(Madhuresh Prasad, J)

Prakash/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

