

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23975 of 2013

Om Prakash, Son Of Late Narain Sao, Resident of Mohalla-Pirmuhani, Near Muslim Grave, P.O. Kadamkuan, P.S. Gandhi Maidan, District Patna

... .. Petitioner/s

Versus

1. The State of Bihar, through its Principal Secretary, Department of Home (Police), Government of Bihar, Old Secretariat, Patna
2. The Director General of Police, Bihar, Old Secretariat, Patna
3. The Inspector General of Police (Wireless), Police Wireless Building, Bailey Road, Patna
4. The Superintendent Of Police (Wireless), Police Wireless Building, Bailey Road, Patna

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Dharmendra Kumar Sinha, Advocate
For the Respondent/s : Mr. Raghwendra Kumar, SC-22

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 05-04-2019

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

In this case, the petitioner was appointed as literate Constable on 12.05.1975 and he was sent to Bihar Police Radio Organization where post of Literate Constable was not available, the petitioner along with others were upgraded to the post of Assistant Sub-Inspector vide letter contained in Memo No.6429 dated 27.07.1977 w.e.f. 22.07.1977. As the post of Literate Constable was not available in the Bihar Police Radio Department, the Government took a decision, communicated vide letter no.1793 dated 14.12.1996 of the upgradation of the post to the level of Sub-Inspector and, accordingly, the post of literate Constable was upgraded, later on, the petitioner was granted the



promotion to the post of Sub-Inspector vide letter no.233 dated 30.01.2003 w.e.f. 21.08.1989 (Annexure-3). The petitioner was again promoted to the post of Inspector of Police vide letter contained in Memo No.3205 dated 6.12.2007 (Annexure-6). The petitioner makes a prayer that he is entitled to the benefit under the MACP as he has superannuated from service on 30.06.2012, whereas, MACP has been introduced and in forced with effect from the year 2009, hence, the petitioner is entitled to third MACP as he has completed 30 years of service continuously from 12.05.1975.

Counsel for the State submits that the petitioner has been granted three promotions, one in the year 1977, another vide letter dated 30.01.2003 w.e.f 21.08.1989, and third promotion by Inspector of Police has has been granted vide letter dated 6.12.2007, so he has been given all possible benefits of promotion which ought to have been given to him. The scheme of ACP/MACP is an anti-stagnation measure, in the sense that if the Govt. servant is not granted promotion for years together to mitigate the hardship instead of granting the promotion, which is dependent on the availability of the post, the higher scale is granted. Under the Scheme of ACP and MACP prescribes that



during the service period, he must get the benefit of enhancement of scale of pay on three occasions.

Having considered the rival contention of the parties, it is apparently clear that though the petitioner has entered into the service in the year 1975, but vide letter dated 14.12.1996, the Government has taken a policy decision to upgrade the post of Literate Constable to the post of Assistant Sub Inspector as there was no post of Literate Constable was available, in such view of the matter, it cannot be treated to have been granted the promotion to the petitioner inasmuch as the event of promotion or the enhancement of the scale as per the ACP Scheme is to be examined after its enforcement if the person is completed 12 and 24 years of service, he will be granted two enhancements of the scale of pay, whereas, MACP Scheme provides the enhancement of scale of pay on three occasions in the interval of 10, 20 and 30 years.

In that view of the matter, this Court is of the view that the petitioner is entitled to third MACP as he has been granted the promotions on two occasions.

Accordingly, this Court directs the respondents to grant the benefit of third MACP to the petitioner in terms of the scale provided in the Schedule of the MACP.



With this observation and direction, this writ application
is allowed.

(Shivaji Pandey, J)

V.K.Pandey/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
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