IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7600 of 2015

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Upendra Prasad Rajak @ Upendra Rajak Son of Braj Mohan Rajak. Resident of Urdu Bazar, Post - Nayabazar, P.S.- Tatarpur, District - Bhagalpur.

... ... Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Revenue and Land Reforms, Government of Bihar, Patna.
3. The Under Secretary, Revenue and Land Reforms, Government of Bihar, Patna.
4. The District Magistrate, Bhagalpur.
5. The Accountant General, Bihar.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Vikash Kumar Pankaj
For the Respondent/s	:	Mr.Md. Fazle Karim, SC I

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 04-09-2019

Heard counsel for the petitioner and counsel for the respondents-State as well as counsel for the Accountant General.

Petitioner has filed this writ petition in the year 2015 challenging order dated 09.02.2015 whereby his claim for benefit under MACP has been rejected by the authorities on the ground that he does not fulfil requisite length of service in the same grade as per Resolution of the Finance department dated 14.07.2010.

Stand of the respondent State Authorities is that benefit of 3rd MACP can only be granted upon completion of thirty years in the same grade. Cadre of petitioner's services from the post of Revenue karamchari, and his grade changed to the grade of Circle

Inspector upon his promotion in 1995. In the cadre and grade of Circle Inspector, petitioner has not completed 30 years and thus is not entitled to 3rd MACP.

Counsel for the petitioner submits that this consideration is incorrect as it is apparent from notification whereby petitioner was promoted as Circle Officer. He submits that same was by way of interim arrangement, petitioner has not actually been promoted. Authorities should thus, have considered petitioner to be in same grade for more than 30 years since his appointment in 1972 as Revenue Karamchari to make available benefit of MACP (3rd progression) in terms of Finance department Resolution dated 14.07.2010 in 2002.

Records reveal that the promotion as Circle Officer was subject to confirmation and if he is not found fit for regular promotion, he was to be reverted to the post of Circle Inspector. No such reversion has admittedly taken place. Petitioner has continued as Circle Inspector from 1995 till his retirement in the year 2012. In the meantime, he was also granted benefit of 2nd Assured Career Progression in the grade pay scale of Rs 4600/- by office order dated 14.07.2010, which he is claiming with effect from 2002.

Stand of the respondents in the counter affidavit is substantially that since petitioner has not stagnated in the same grade of pay scale i.e. the scale of Circle Inspector for more than 30 years, therefore, in terms of Finance department Resolution dated 14.07.2010, he would not be entitled to 3rd Assured Career Progression, is therefore correct.

Writ petition is devoid of merit and the same is dismissed.

(Madhuresh Prasad, J)

s.hassan/-

AFR/NAFR	NAFR
CAV DATE	NA
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