

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10420 of 2015

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Nawal Kishore Singh Son of late Saryug Singh, resident of Village- Fatehpur,
P.O. Rajila, P.S Kurhani, Town and District Muzaffapur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Principal Secretary, Land Reforms Department, Government of Bihar,
Patna.
3. The Divisional Commissioner, Tirhut Division, Muzaffapur.
4. The District Magistrate, Muzaffapur.
5. The Additional Collector, Muzaffapur.
6. The Deputy Collector Establishment, Muzaffapur.
7. The Deputy Collector Land Reforms, West Muzaffapur.
8. The Sub-Divisional Officer, West Muzaffapur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Rajendra Kr. Jain and Pradeep Kr. Sinha and Mrs. Punam Srivastava, Advs.
For the Respondent/s	:	Mr. Subhash Pd. Singh, GA-3

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL JUDGMENT

Date : 21-05-2019

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

2. In this case, the petitioner is seeking relief of 3rd
M.A.C.P. with effect from 06.04.2009.

3. The petitioner was appointed as Stenographer in the
year 1979, he passed Hindi Noting and Drafting Examination in
1989 and he passed Departmental Accounts Final Examination in
1986. After the enforcement of A.C.P. scheme, the petitioner was



granted the 1st A.C.P. with effect from 09.08.1999, vide Memo no.1099/stha dated 16.10.2004, and 2nd A.C.P. he has been granted with effect from 06.04.2003 in the pay scale of Rs.5500-9000, vide Memo no.1026/stha dated 08.12.2005. In the meantime, the Government has brought a scheme of M.A.C.P. replacing scheme of A.C.P. which stipulates and provides that if a government employee has not been granted any promotional benefit, he will be entitled to 1st A.C.P. after completion of 10 years of service, 2nd A.C.P. after 20 years and 3rd M.A.C.P., he will be granted on completion of 30 years of service. The petitioner has completed 30 years of service on 06.04.2009 and 3rd M.A.C.P. has been introduced and enforced with effect from 01.01.2009. There was no proceeding against the petitioner till 06.04.2009 and refusal of relief has been made on the ground that in the year 2011, a departmental proceeding was initiated against him, he was put under suspension and later on he was dismissed from service, but the order of dismissal passed after superannuation from service was challenged in C.W.J.C. No.226 of 2015 and this Court, vide judgment and order dated 09.08.2016, allowed the said writ petition, having stated that after the superannuation from service, the order of dismissal cannot be passed, on this ground, the said writ petition has been allowed.



4. The learned counsel for the petitioner submits that as on today, there is no punishment has been inflicted upon the petitioner nor the proceeding was converted into a proceeding of section 43 (b) of Bihar Pension Rules and that order of punishment itself has been set aside, inasmuch as when the petitioner has completed 30 years of service, as there was no proceeding nor any censure nor any punishment was awarded, as such, he is entitled to the 3rd M.A.C.P. with effect from 01.01.2009.

5. The learned counsel for the State submits that as because the petitioner was put under suspension as well as a departmental proceeding was pending and, as such, he was not granted the benefit of 3rd M.A.C.P., but the State has not denied that the order of punishment has already been set aside by this Court.

6. Having considered the rival contentions of the parties, admittedly the petitioner has completed the period of 30 years in service on 06.04.2009 and upto that date, there was no proceeding or show cause was issued nor any manner the departmental proceeding nor criminal proceeding was pending against him except in 2011 a proceeding was initiated against him, but ultimately it could not survive as the order of punishment was set aside on account of his superannuation and the proceeding has not been converted as a



proceeding of section 43 (b) of Bihar Pension Rules so upto the date of superannuation, the petitioner remained unblemished, in such view of the matter, on both the counts, the petitioner has completed 30 years of service and upto that period, there was no proceeding as well as the proceeding, which was initiated against him, the order of punishment has already been set aside.

7. In such view of the matter, this petition is allowed and this Court directs the State Government to grant benefit of 3rd M.A.C.P. to the petitioner with due date i.e. 06.04.2009 within a period of three months from the date of receipt or production of a copy of this order.

8. With the above observation and direction, this application is allowed.

(Shivaji Pandey, J)

Mahesh/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23.05.2019
Transmission Date	N/A

