

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1440 of 2019

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Ram Swarup Paswan, aged about 64 years, Male, son of Late Manour Paswan
Resident of Village, P.O. and Police Station- Maniyari, Dist- Muzaffarpur

... .. Petitioner/s

Versus

1. The State of Bihar through The Chief Secretary, Government of Bihar, Patna
2. The Principal Secretary, Home Department. Government of Bihar, Patna.
3. The Special Secretary, Home(Police) Government of Bihar, Patna.
4. The Director General of Police, Bihar, Patna.
5. The Inspector General General of Police (Head Quarter) Government of Bihar, Patna.
6. The Baiyaktik Dawan Nidan Koshang (PCFC) Finance Department, Govt. of Bihar, Patna.
7. The Accountant General, Birchand Patel path, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Diwakar Yadav, Advocate
For the State	:	Mr. Ravi Verma, AC to GP 4
For the Accountant General	:	Mr. Shiv Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

Date : 24-06-2020

The matter has been heard *via* video conferencing due to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Mr. Diwakar Yadav, learned counsel for the petitioner; Mr. Ravi Verma, learned AC to GP 4 for the State and Mr. Shiv Kumar, learned counsel for the Accountant General, Bihar.

3. The petitioner has moved the Court for the following



reliefs:

“(i) For issuance of an appropriate writ/order/direction to the respondents to grant differences of retiral dues of petitioner after granting benefits of 3rd MACP with effect from 01.01.2009 in pay scale of pay Band of Rs. 3+7600/- in pursuance of order bearing Memo no. 3369 dated 18.05.2015 issued under the signature of Special Secretary Home (Police), Govt. of Bihar, Patna.

(ii) For issuance of an appropriate writ/order/direction to the Respondents to refix the pay scale of petitioner with effect from 01.01.2009 in pay band of Rs. 3+7600/- and to make payment of arrears of salary till his retiral benefits on 31.07.2014.

(iii) For issuance of an appropriate writ/order/direction to the respondents to revise the last pay drawn by the petitioner after granting benefits of MACP with effect from 01.01.2009 of pay band of Rs. 3+7600/- and to revised the pension on the last pay drawn after granting the aforesaid benefits and 3rd MACP and to make payment arrear of pension from 01.08.2014 till date and current pension accordingly.

(iv) For issuance of appropriate writ/order/direction granting any other relief or reliefs for which the petitioner is found entitled.”

4. Learned counsel for the petitioner submitted he is entitled to grant of 3rd MACP which has not been given to him.

5. Learned counsel for the State, from the counter



affidavit, submitted that the petitioner does not fulfill the criteria for grant of such benefit for two reasons. Firstly, it was submitted that the petitioner has already been granted three promotions and secondly, that the petitioner, as per the requirement under the Police Manual as well as the relevant circulars of the State Government, has not cleared the Departmental Examination, which is a precondition for grant of such benefit. It was submitted that though copy of the counter affidavit has been served on learned counsel for the petitioner on 07.03.2019, no rejoinder to the same has been filed.

6. Learned counsel for the Accountant General submitted that unless the State Government sanctions such promotion, it has no role to play, for the present. It was submitted that till date the Accountant General has not received any such sanction order.

7. Learned counsel for the petitioner, by way of reply, submitted that he has not got any 3rd promotion.

8. At this juncture, on a query of the Court as to whether the petitioner had cleared the Departmental Examination or had applied for exemption after attaining the age of 50 years, which is a prerequisite for the authority to even consider such exemption, learned counsel could not show to the



Court that he had complied with the two conditions. Learned counsel for the petitioner also could not controvert that grant of such relief is subject to the conditions as laid down in the 2010 Policy of the State Government and the relevant provisions of the Bihar Police Manual, which he could not show that the petitioner fulfilled.

9. Having regard to the aforesaid, especially the fact that the detailed stand of the State having been explained in its counter affidavit, copy of which was served on learned counsel for the petitioner on 07.03.2019 itself, and there being no rejoinder filed to the same, the Court is not inclined to keep the matter pending.

10. Accordingly, the writ petition stands disposed off.

11. However, it shall be open to the petitioner to file a detailed representation before the Director General of Police, Bihar with regard to his claim, annexing all supporting documents/materials in support thereof. If the same is filed within six weeks from today, the Director General of Police, Bihar shall look into the matter and thereafter pass a reasoned order on the same, within six weeks from the date of filing of the representation. If it is found that the petitioner is entitled to the relief claimed, the benefit shall also be given to him after



completing the formalities, within two months from the date of
passing of the order.

(Ahsanuddin Amanullah, J)

Anjani/-

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