

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3453 of 2020

1. The Union of India through the Director General, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Postmaster General, Bihar Circle, Patna.
3. The Postmaster General, Northern Region, Muzaffarpur.
4. The Director, Postal Services, Northern Region, Muzaffarpur.
5. The Superintendent, Railway Mail Service 'U' Division, Muzaffarpur.
6. The Director Accounts of Post, Bihar, Patna.

... .. Petitioner

Versus

Arun Kumar Shukla, son of Late R.K. Shukla, Ex HAS, RMS 'U' Division Muzaffarpur, Resident of Kishoralaya Bhawan, Anandpuri Bibiganj, Muzaffarpur - Vaishali (Bihar).

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Verma, Advocate
For the Respondent/s : Mr.

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

and

HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 18-02-2020

Heard learned counsel for the petitioners.

In the present case, a short issue is involved with respect to recovery of the amount from a retired person, who has been granted the benefit of M.A.C.P. with effect from 01.09.2008 and thereafter it has been shifted to 11.05.2009.

Learned counsel for the petitioners submits that the benefit of third M.A.C.P. was wrongly granted to the respondent- Arun Kumar Shukla, as on that date a departmental proceeding was pending against the respondent, which ultimately resulted into



awarding the punishment of Censure. However, the fact remains, the respondent did not obtain the benefit of M.A.C.P. by suppression or misrepresentation of fact, inasmuch as, every person in the department was knowing the fact that the respondent was facing a departmental proceeding and even then he has been granted the benefit of third M.A.C.P. A Censure is a punishment of lesser in quantum and the Tribunal has held that recovery will be disproportionate to the punishment awarded to the respondent and that too from a retired employee when he has not done any wrong in obtaining the benefit of M.A.C.P. Reliance can be placed on the decision of the Hon'ble Supreme Court rendered in the case of *State of Punjab and others vs. Rafiq Masih and others* reported in *(2015) 4 SCC 334*.

In such view of the matter, we do not find any error in the order of the Tribunal. Accordingly, this writ petition is dismissed.

(Shivaji Pandey, J)

(Anjani Kumar Sharan, J)

pawan/-

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