

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.558 of 2018

=====

Bhagwan Manjhi, Son of Late Ramayan Manjhi, Resident of Vill +Post- Itwa,
P.S.- Pachrukhi, District- Siwan.

... .. Petitioner/s

Versus

1. The Union Of India through the Secretary, Ministry of Home, South Block, Sansad Marg, New Delhi.
2. The Director General, Head Quarter, Border Security Force, C.G.O. Complex, Lodhi Road, New Delhi.
3. The Commandant, 136, Battalion, Border Security Force, Ram Bag Camp, Gandhi Dham, District- Kutch (Gujarat)

... .. Respondent/s

=====

Appearance :

For the Petitioner : Mr.Sanjay Kumar Ghosarvey, Advocate
For the Union of India : Mr.Ram Anurag Singh, CGC

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 05-09-2022

By way of instant writ petition, the petitioner seeks a direction upon the respondents for grant of benefit of 1st ACP and 2nd ACP under the Scheme of 1999. He also seeks payment of consequent arrears of difference of salary and interest on delayed payment which, he claims, is due since the year 2006.

2. The brief facts of the case are that the petitioner joined as Constable in the respondent-Border Security Force on 21.04.1981. He was promoted to the rank of Lance Naik with effect from 15.04.1991 and Naik with effect from 11.03.1994. He was promoted as Head Constable with effect from 10.10.1997. The



petitioner has also suffered various punishments, as per details in the counter affidavit.

3. It would be relevant to take note of the fact that the averments made in the counter affidavit have not been denied or disputed by filing any rejoinder on behalf of the petitioner.

4. The Assured Career Progression (ACP) Scheme was introduced in 1999 to Group-`B`, `C` and `D` posts under the Government of India, since there was acute stagnation. To overcome the stagnation, the ACP provided grant of financial up-gradation, first being on completion of 12 years. Second financial up-gradation was to be made available on completion of 24 years, subject to fulfilment of the prescribed conditions.

5. Just prior to introduction of ACP Scheme, the petitioner was promoted to the rank of Head Constable in 1997. On completion of 24 years in service, he became eligible for grant of second financial up-gradation, i.e., with effect from 21.04.2005. The petitioner was awarded punishment and had committed offence under Section 46 of the BSF Act, for which disciplinary action was pending when the second financial up-gradation became due. Ultimately, after his trial by the Petty Security Force Court, the petitioner was awarded sentence “to suffer rigorous



imprisonment for 89 days in Force custody” and “to reduce to the rank of Constable”. This sentence was awarded on 28.12.2005.

6. The respondents have placed reliance on the guidelines issued by the Force Headquarters of the respondent-Force (Staff Section) dated 01.05.2001 regarding grant of benefit under ACP. It is their specific case that in view of pending disciplinary action when second ACP became due; and sentence awarded on 28.12.2005, the petitioner could not be considered for grant of financial up-gradation for a period of five years from the date of punishment.

7. The Union of India has thus justified non-grant of second financial up-gradation under ACP in 2005. It is further stated in the counter affidavit that the petitioner was subsequently considered for promotion on 29.12.2011 by the Departmental Promotion Committee and was granted promotion to the rank of Head Constable on 14.02.2012. It is also stated that after completion of five years of the sentence dated 28.12.2005, the petitioner has been granted benefit of 3rd MACP on 21.04.2011, after completion of 30 years of service. There is also statement to the effect that benefits of 1st and 2nd Modified Assured Career Progression were given to the petitioner on 28.12.2010 and 29.12.2010.



8. Considering the above noted facts and circumstances, this Court does not find any substance in the petitioner’s claim for grant of benefit under 1st and 2nd ACP, for which no case is made out.

9. Writ petition is dismissed.

(Madhuresh Prasad, J)

PNM

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

