

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8780 of 2016

Harish Chandra Mishra Son of Late Sukhdeo Mishra, resident of village-
Thakurganj, P.S.- Thakurganj, District- Purnea

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Director, Primary Education, Government of Bihar, Patna
3. The Regional Education Officer, Kishanganj
4. The District Programme Officer Establishment, Education Officer,
Kishanganj

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shravan Kumar, Senior Adv.
For the Respondent/s : Mr. Raghwendra Kumar, SC-22

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 3 22-04-2024 1. The petitioner has filed the present writ application for direction to the respondents to grant him Grade-I and Grade Pay of Rs. 6600/-.
2. The petitioner was appointed as Science Trained Teacher in the year 1980 and was later granted scale of pay Rs. 387-13-465-EB-15-600 vide letter No. 7267-7362, dated 24.07.1981.
3. After completion of 12 years in service, the petitioner was given senior scale vide Memo No. 667, dated 16.07.2009, issued by the District Education Supervisor-cum-Sub-divisional Education Officer, Kishanganj, and was placed in the pay scale of 7500-12000 w.e.f. 24.05.2000.



4. Learned senior counsel for the petitioner submits that on 28.01.2009, the State Government took a decision to grant financial upgradation and revision of pay in accordance with the recommendation of the 6th Pay Commission vide its resolution, dated 28.01.2009, to all the teachers of primary, middle and senior school, including the Headmasters.

5. In pursuance of the aforesaid decision, the petitioner was given 1st financial upgradation vide letter, date 16.07.2009, after completion of 12 years of service.

6. Learned counsel next submits that the petitioner is entitled for 2nd upgradation/progression as per the MACP Scheme, 2010, which was made applicable for the teachers by the resolution of the State Government, dated 07.10.2021.

7. The petitioner, after giving satisfactory service, retired on 30.06.2015. However, the petitioner was not granted increment for the last year of service on the ground that the petitioner retired on 30.06.2015, i.e. a day before the date of accrual of increment on 01.07.2015.

8. Learned senior counsel relies upon the decision of the Hon'ble Supreme Court, passed in case of **The Director (Admn. and HR) KPTCL and Ors. vs. C. P. Mundinamani and Ors.**, reported in **AIR 2023 SC 1956**, and submits that the



petitioner is entitled for annual increment also.

9. Learned counsel for the State argued that as per the 6th Pay Revision Commission, the petitioner is not entitled for Grade Pay of Rs. 6600/- w.e.f. 24.05.2012, and the same was not given to him due to the reason that promotion rules does not permit to do so. Rule 3 of the Promotion Rule, 2011, prescribes about the grade of Government Teachers.

10. From perusal of the chart, it appears that the Headmaster of Government Middle School is not entitled for Grade-I, as such, the petitioner was not given Grade Pay of Rs. 6600/- and increment from July, 2014 till his superannuation on 30th June, 2015.

11. I have heard learned counsel for the parties concerned.

12. From perusal of the resolution of the Government, dated 07.10.2021, it appears that the Government has taken a decision to implement the Scheme of MACP, 2010, for teachers, whereby, the teachers and headmasters, on completion of 10, 20 and 30 years of service shall be granted 1st, 2nd and 3rd financial upgradation (time bound progression) respectively.

13. The petitioner was granted 1st financial



progression after completion of 12 years of service w.e.f. 24.05.2000.

14. As per the submissions advanced by learned senior counsel for the petitioner, the petitioner is entitled for 2nd financial progression in view of the MACP Scheme, 2010, which was made applicable in the cases of teachers.

15. As such, even if the 2011 Promotion Rules does not prescribe any Grade-I scale for Headmaster of Middle School, at least the petitioner's claim is required to be considered by the authorities for grant of 2nd financial upgradation as per the Government's own decision, dated 07.10.2021, for grant of MACP, 2010, to the teachers.

16. Admittedly, the petitioner retired in the year 2015 and MACP Scheme has been made applicable w.e.f. 2010.

17. In view of the above, the petitioner is permitted to file a written representation before the respondent no. 3 within a period of one month claiming 2nd financial upgradation as per the MACP Scheme, 2010.

18. If the representation is filed by the petitioner, the respondent no. 3 shall be obliged to dispose the same in accordance with law within a period of two months from the date of receipt of representation.



19. It is made clear that if the claim of the petitioner is found admissible as per the law, the respondent-authorities shall pay all financial and consequential benefits to the petitioner.

20. In so far as, the claim of the petitioner for grant of increment of one year i.e. for the period of July, 2014 to July, 2015 is concerned, the petitioner has relied upon a judgment of **The Director (Admn. and HR) KPTCL** (supra) in this regard.

21. The Supreme Court in a similar circumstances has held that the increment is earned for rendering service with good conduct in a year/specified period.

22. The moment the government servant has rendered service for a specified period with good conduct, he is entitled to the annual increment. Therefore, the government servant is entitled to the benefit of the annual increment on the eventuality of having served the specified period for (one year) with good conduct efficiently and merely because, the government servant has retired on the very next day, he cannot be denied the annual increment which he has earned and/or is entitled to for rendering the service with good conduct and efficiently in the preceding one year.



23. In the present case also, the petitioner has completed one year of satisfactory service efficiently and with good conduct between July, 2014 to 30th June, 2015. He has not been paid increment for one year since July, 2014 on the ground that petitioner retired one day before the accrual of increment on 01.07.2015.

24. In view of the above, I hold that the petitioner is entitled to annual increment and he cannot be denied the increment for the period July, 2014 to July, 2015 merely on the ground that the petitioner retired on 30.06.2015, i.e. one day before the date of accrual of the annual increment on 01.07.2015.

25. Accordingly, the respondents are directed to pay the increment for the period July, 2014 to July, 2015 with all consequential and monetary benefits.

26. With the above observations and directions, this writ application is disposed.

(Anil Kumar Sinha, J)

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