IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(S) No. 146 of 2019

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Jaldhari Rai, Aged about 65 Years, Son of Late Jagdish Rai, Resident of Village- Ekauna, P.O.- Ekauna, P.S.- Simri, District- Bhojpur State- Bihar. …. **Petitioner(s)**

-VERSUS-

1. The State of Jharkhand through The Chief Secretary, Government of Jharkhand, Ranchi. At Project Building, Jharkhand, Ranchi, Post Office - Dhurwa, Police Station - Dhurwa, District - Ranchi.
2. The Chief Secretary, Government of Jharkhand, Ranchi. At Project Building, Jharkhand, Ranchi, Post Office - Dhurwa, Police Station - Dhurwa, District - Ranchi.
3. The Principal Secretary, Forest and Environment Department, Government of Jharkhand, At-Nepal House, Doranda, Ranchi, Post Office & Police Station - Doranda, District - Ranchi.
4. The Principal Secretary, Finance Department, Government of Jharkhand At Project Building Jharkhand, Ranchi, Post Office Dhurwa, Police Station - Dhurwa, District - Ranchi.
5. The Principal Chief Conservator of Forests, Jharkhand, Ranchi, At- Ban Bhawan, Doranda, P.O. & P.S- Doranda, District- Ranchi.
6. The Additional Principal Chief Conservator of Forest, Ranchi Region, At - Ban Bhawan, Doranda, P.O. & P.S- Doranda, District- Ranchi.
7. The Regional Chief Conservator of Forest, Ranchi Region, At Ban Bhawan, Doranda, P.O. & P.S- Doranda, District- Ranchi.
8. The Conservator of Forest, State Trading Circle, Ranchi, At- Ban Bhawan, Doranda, P.O.&P.S.- Doranda, District- Ranchi.
9. The Divisional Forest Officer, Khunti Forrest Division, Khunti, P.O. & P.S.- Khunti, District- Khunti.
10. The Accountant General, Jharkhand, Ranchi, At Doranda, P.O.&P.S.- Doranda, District- Ranchi. **…..Respondent (s)**

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CORAM: **HON'BLE MR. JUSTICE DEEPAK ROSHAN**

For the Petitioner(s) : Mr. Mahesh Kr. Sinha, Adv
For the Respondent (s) : Mr. Rohit Sinha, Adv

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11/05.05.2026

1. Heard learned counsel for the parties.

2. The instant writ application has been preferred by the Petitioner for quashing of the Office Order No. 173 dated 29/09/2016 corresponding to Memo No. 3783 dated 29/09/2016 (Annexure-2), issued by the 5th Respondent; whereby and where under the Respondent No. 5 has rejected the claim of the Petitioner for 2nd

A.C.P.

3. Further prayer has been made for a direction upon the Respondents to grant 3rd Modified Assured Carrier Progression (M.A.C.P.) to the petitioner in the M.A.C.P. pay bands/scales of Rs.9300-34800/-with grade pay Rs. 4600/- with effect from 01/09/2008 on account of completion of 30 years of service under the M.A.C.P. Scheme with entire consequential benefits.

4. Learned Counsel for the petitioner submits that he was appointed as Forest Guard on 12/04/1977. He was given promotion to the post of Forester with effect from 10/06/2011. He superannuated from service on 30/04/2013 from the post of Forester from Jargo Forest Beat, Tamar Forest Range, Tamar within Khunti Forest Division, Khunti and as such he served the department for more than 36 years; as such, he is entitled for 1st A.C.P. in scale of Rs. 4000-6000/- with effect from 09/08/1999 on account of completion of 12 years of service and also 2nd A.C.P. in the scale of Rs. 6500-10,500/- with effect from dated 12/04/2001 on account of completion of 24 years of service according to Government Resolution being Memo No. 2446 dated 17/11/2012 issued by Finance Department, Government of Jharkhand; however, his claim for 2nd A.C.P. has been denied by the impugned order on the ground that he is non-matric.

5. He further submits that the issue regarding the scale structure of 2nd A.C.P. in respect of the forest guard; this Court has given verdict in *W.P.(S) No. 6081/2014* along with the other analogous cases in which it has been observed that that the scale structure of 2nd A.C.P. for the post of Forest Guard is 6500-10,500 and also observed that the qualification for matriculation is not required for granting the 2nd A.C.P.

Though, the state has also preferred appeal being *L.P.A.no 262 of 2018* but the same was also dismissed.

6. Learned counsel for the respondents submits that the petitioners are non-matric and the eligibility criteria for grant of the claimed pay

scale is subject to fulfillment of prescribed educational qualification as mandated in clause 3 (vii) of the Resolution No. 5207 dated 14.08.2002 of the Department of Finance, Government of Jharkhand; however, he could not dispute the fact that the issue of this case is squarely covered by the aforesaid judgement.

7. Having heard learned counsel for the parties it transpires that issue involved in the instant case is squarely covered by the order passed in *W.P.(S) No. 6081/2014* along with the other analogous cases in which it has been observed that that the scale structure of 2nd A.C.P. for the post of Forest Guard is 6500-10,500 and it was also observed that the qualification for matriculation is not required for granting the 2nd A.C.P. in the scale of 6500-10500/-.

For better appreciation; relevant paragraph of the order passed in *W.P.(S) No. 6081/2014* along with the other analogous cases is quoted herein below:

> **"**9. *Resultantly, the writ petitions are allowed. The respondents are directed to consider the cases of the petitioners and grant them the benefits of 2nd ACP by disregarding the requirement of matriculation as essential qualification provided the petitioners, who are otherwise eligible and suitable for grant of 2nd ACP in the scale of Rs.6500-10500. Further, the order of recovery, if any, are also hereby quashed and set aside. The respondents are further directed to grant the said benefits to the petitioners and to make refund of the amount, if any, which has already been recovered, within a period of three months from the date of receipt/ production of a copy of this order and also inform the petitioners accordingly***"**

8. As aforesaid, the appeal preferred against the said order was also dismissed; as such, the issue has been set at rest by the Division Bench of this court in *L.P.A.no 262 of 2018*. For brevity, relevant paragraph are quoted herein below:

> 4. " *As such, the only question, that is required to be decided in all these LPAs are, whether the writ petitioners were entitled for the benefits of the 2nd ACP in the scale of Rs.6500/- to 10,500/-, and whether the benefits of this scheme could be denied to them on the ground that they were not having the prescribed minimum qualification for the post of Forest Range Officer, i.e., matriculation pass. It may be stated that so far as the grant of 1 st ACP to the writ petitioners are concerned, the matter is no more in dispute.*
> *7. Having heard learned counsels for both the sides and upon going through the record, we find that for answering the question whether the writ petitioners were entitled for the benefits of the 2nd ACP in the scale of Rs.6500/- to 10,500/-, and <u>whether the benefits of this scheme could be denied to them on the ground that they were not having the prescribed minimum qualification for the post of Forest Range Officer, the only point that is required to be seen, whether for the promotion to the post of Forest Ranger, the writ petitioners were required to have the qualification of matriculation pass. In this connection, the Clause 3.20 of the Forest Manual is absolutely clear, which provides that for filling up of the said post by promotion, the minimum qualification is not to be seen, rather the only requirement to be seen is that the employee must have, long service in the feeder post, as well as tried ability and probity, and if they fulfilled these conditions, they</u>*

> *could not be denied the promotion to the post of Forest Ranger, irrespective of their educational qualifications. Thus, the very ground for withdrawing the 2nd ACP granted to the petitioners, that they were not having the prescribed educational qualification for the post for direct recruitment to the post of Forest Ranger, is absolutely a non-existent ground, in view of the express provision in Clause 3.20 of the Forest Manual.*
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> *(Emphasis supplied)*

9. At this stage, it is also relevant to refer the judgment of the Hon'ble Apex Court in *"Amresh Kumar Singh & Ors. V. State of Bihar & Ors.*[1]*;* wherein it has been categorically held that fulfilment of educational qualifications prescribed under the recruitment rules for the purposes of promotion are not necessary for non-functional in situ promotion.

10. Accordingly, the instant Writ application is squarely covered by the aforesaid judgements; as such, the instant writ application is allowed and order dated 29.09.2016 (Annexure 2), is quashed and set aside. The respondents are directed to grant 2nd ACP with the due date within a period of 12 weeks from the date of receipt of copy of this order.

11. So far as claim from 3rd M.A.C.P of petitioner is concerned; the concerned respondent is directed to verify the records and if the petitioner has completed 30 years of service and there is no legal impediment in accordance with law; then the same may also be extended to the petitioner.

12. As a result, the instant writ application stands allowed.

13. Pending I.As., if any, also stand disposed of.

(Deepak Roshan, J)

05.05.2026

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[1] 2023 SCC OnLine SC 496