

(2009) 02 JH CK 0100
In the Jharkhand High Court

Ramanand Chaudhary

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 04-02-2009

Acts Referred:

Citation : (2009) 02 JH CK 0100

Hon'ble Judges : Dabbiru Ganeshrao Patnaik, J

Bench : Single Bench

Judgement

D.G.R. Patnaik, J.—In this writ application the petitioner has prayed for issuance of a writ of mandamus commanding upon the Respondents to pay the benefits of the Assured Career Progression (ACP) to the petitioner, as per law prescribed for grant of ACP, on his completing of 12 years and 24 years of service.

2. The petitioner was appointed as a direct appointee to the post of Sub-Inspector of Police on 14.10.1985. On completing his police training, he was posted in different districts under the erstwhile state of Bihar in between 1985 to 1996 and he was promoted to the post of Inspector of Police in the year 2006.

3. The petitioner's claim is that the State Government had implemented the Assured Career Progression Scheme in respect of its employees and had made it applicable to the police personnel from the date of their passing the police training. Under the scheme, the Government Servant who completes 12 years of service, is entitled to be placed on a higher pay scale by way of first ACP and on completing 24 years of service, at a further higher pay scale by way of second ACP. Such benefits under the scheme is available to such employees who are otherwise eligible for promotion under the Rules which inter-alia also includes passing of the requisite departmental examination wherever prescribed. In the case of Assistant Sub-Inspectors of Police, for grant of ACP in the general category, the date 09.08.1999 was fixed as the cut of date for placement in the higher pay scale and by a notification dated 22.09.2003, such employees were given the benefit of ACP with effect from the cut of date i.e. 09.08.1999.

4. Considering himself to be eligible for the benefit under the ACP scheme, the petitioner had submitted his representations before the respondent authorities but inspite of his repeated representations, he has not been granted the benefits of the ACP Scheme and neither has he been given even the first time bound promotion on his completing 10 years of service from the date of his appointment.

5. It is explained that though the State Government, vide its subsequent Resolution dated 05.09.2001 has withdrawn the scheme of time bound promotion in respect of the employees, with effect from 31.12.1995 but the said notification has not deprived the eligibility of the Government employees of time bound promotion who were eligible prior to 31.12.1995.

6. The contention of the petitioner is that the petitioner was entitled for the first time bound promotion on his completing 10 years of service from the date of his appointment i.e. from 14.10.1985 and since the same was not given to him at the relevant time of his completing 10 years of service, he cannot be deprived of the benefits of the first time bound promotion and neither can he be deprived of from being considered for the benefits under the ACP Scheme on his completing 24 years of continuous service. The petitioner adds that all through his service tenure he has maintained a clean record and has never been departmentally proceeded against for any charge whatsoever.

7. A counter affidavit has been filed on behalf of the respondents. Denying and disputing the petitioner's claim, the stand taken by the respondents is that at the meeting of the D.G. Board, held on 03.08.2007 and 22.08.2007, the petitioner's case for ACP along with cases of other Inspectors were considered and he was found fit for the first ACP with effect from 09.08.1999. The grant of 2nd ACP would be considered therefore only after the petitioner completes 24 years of service and become eligible for such consideration. It is further stated that since the petitioner had availed the benefits of first ACP, he cannot claim the benefit of the first time bound promotion also.

8. I have heard the learned Counsel for the petitioner and the respondents. Admittedly the petitioner has already availed the benefit of the first ACP which has been given to him with effect from 09.08.1999. The petitioner apparently is not satisfied on the ground that he was entitled to the grant of first time bound promotion with effect from the date he had completed 10 years of continuous service as per the earlier scheme of time bound promotion. The petitioner's contention is that had the benefits of time bound promotion been given to him immediately on his completing 10 years of service on 14.10.1995, he would have benefited with the higher scale of pay on promotion. Such benefit has been denied to him for a period of four years on account of the inaction of the respondents to consider his case and grant him time bound promotion at the time when it became due to him.

9. On perusal of the Government Notification (Annexure-3) dated 05.09.2001 as

filed by the petitioner, it appears that it is a circular issued by the office of the Director General of Police, Ranchi on the subject "Time Bound/Selection Grade Promotion given to the employees till 31.12.1995". The notification referred to in the aforesaid circular and on the basis of which the senior police officers were required to take necessary action, has not been annexed to the annexure. In absence of detailed information, I am unable to draw any inference from the filed annexure (Annexure-3) as to what was the decision of the State Government in respect of the time bound promotion scheme. The only inference which could be drawn from the submissions of the learned Counsel for the petitioner is that the scheme for time bound promotion has been withdrawn by the notification (Annexure-3) but Annexure-3 does not indicate as to from which date has the time bound promotion scheme been withdrawn. In absence of the detailed information, this Court can only make an observation with reference to the petitioner's claim that the if the time bound promotion scheme was in operation and was applicable to the Government employees who had completed 10 years of continuous unblemished service, then the benefit of the scheme would apply to the petitioner also if the scheme was in operation on the date the petitioner had completed 10 years of unblemished service. Had the petitioner been granted the first time bound promotion, he may not have got the additional benefits of the first ACP but the grant of the first ACP with effect from 10.08.1999 does not compensate" the monetary loss which he had suffered on account of non-grant of time bound promotion on a higher pay scale from the date he had completed 10 years of service.

10. The counter affidavit of the respondents does not offer any specific answer to the petitioner's claim regarding his demand for the benefits of the time bound promotion from the date when he became eligible on completing 10 years of service.

11. Under the aforesaid circumstances, the petitioner shall file a representation along with a copy of this order before the concerned authorities of the respondents and within three months from the date of receipt of the representation, the authorities concerned shall consider the same and pass a reasoned and speaking order and effectively communicate their decision to the petitioner.

12. With these observations, this writ application is disposed of.

13. Let a copy of this order be given to the learned Counsel for the respondent State.