

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P. (S) No. 5761 of 2014

Navin Kumar Sinha

..... ... Petitioner

Versus

1. The State of Jharkhand.

2. The Secretary, Department of Industries, Ranchi.

3. The Deputy Secretary, Department of Industries, Ranchi.

4. The Director, Handloom & Sericulture,

Department of Industries, Doranda.

..... ... Respondents

CORAM : HON'BLE MR. JUSTICE H. C. MISHRA

For the Petitioner : M/s Sumeet Godadia

& Prem Pujari Roy, Advocate

For the Respondents : JC to G.P.-I

3/ 30.06.2016 Heard learned counsel for the petitioner and learned counsel for the respondents.

The petitioner has retired from service on 30.9.2012 from the post of Assistant Director, Sericulture, Giridih, after completing 30 years of his service. During his tenure of service, the petitioner was given one promotion and he was also given the benefit of 2nd ACP from the due date, from which, he was entitled to. The petitioner is claiming the benefit of MACP, which is applicable to the State employees after completion of 30 years of satisfactory service.

The case of the petitioner is that he is entitled to the benefit of MACP with effect from 1.9.2008, i.e., the date from which the scheme of MACP is applicable, but the same has not been granted to the petitioner.

Learned counsel for the petitioner has submitted that the petitioner has been wrongly denied the benefit of MACP by the respondent State and from the counter affidavit filed on behalf of the respondents, the reason of denying the same, as stated, is that the petitioner had not passed the departmental examination, for which, provision has been made in the relevant service Rules framed in the year 2013. It is submitted that since the petitioner had retired from service in the year 2012 itself, the said Rule is not applicable to the petitioner. It is further submitted that the petitioner had already passed the departmental examination, due to which he had been given the due promotion and 2nd ACP from the dates applicable. Learned counsel has accordingly, submitted that there is no reason as to why the benefit of MACP shall be denied to the petitioner.

Learned counsel for the State, on the other hand, has submitted that the petitioner has been denied the benefit of MACP, as he had not passed the departmental examination, as stated in the counter affidavit. However, it is also stated in the counter affidavit that the petitioner has been exempted from passing the departmental examination on 20.2.2010 by the State Government, vide order contained in Annexure-D series, due to the fact that the State employees attaining the age of fifty years are exempted from passing the departmental examination, and in that view of the matter, the petitioner shall be entitled to the benefit of MACP since 20.2.2010, and not from 1.9.2008, as claimed by the petitioner. Learned counsel, however, is not in a position to state as to why the petitioner has not been granted the benefit of MACP even from the year 2010 as yet.

In the facts of this case, since the petitioner has retired from service on 30.9.2012, upon attaining the age of 60 years, the petitioner must have completed the age of 50 years in the year 2002 itself. If the petitioner has been exempted from appearing in the examination upon attaining the age of 50 years, there is no reason as to why this shall be applicable from the date of passing of the order, i.e. 20.2.2010. If the exemption has been granted due to the reason that he crossed the age of 50 years, then that exemption has to be applicable with effect from the date when he had actually crossed the age of 50 years. This apart, the petitioner has been granted the 2nd ACP from the due date, which is not in dispute.

In the facts of this case, I do not find any force in the submission of learned counsel for the State that the petitioner is not entitled to be given the benefit of MACP prior to the year 2010. The petitioner had completed the service of 30 years prior to the date coming into force of the scheme of the MACP. The scheme of MACP is applicable with effect from 1.9.2008. In that view of the matter, it is directed that the petitioner shall be given the benefit of MACP with effect from 1.9.2008 with all consequential benefits. The respondents are directed to comply this order positively within the period of four months from the date of communication / production of the copy of this order.

This writ application is accordingly, allowed in the aforesaid terms.

(H. C. Mishra, J.)