

GAHC010206002024



2026:GAU-AS:715

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5122/2024

PRASANTA BORGOHAIN
S/O- LATE PRIYA RAM
BORGOHAIN,
R/O- NAZIRA TOWN,
WARD NO-2, NEAR BORBORUAH PUKHURI,
P.O AND P.S- NAZIRA,
DIST- SIVASAGR, ASSAM,
PIN-785685

VERSUS

THE STATE OF ASSAM AND 3 ORS
REP. BY THE COMMISSIONER AND SECRETARY, TO THE GOVERNMENT
OF ASSAM, AGRICULTURE DEPARTMENT
HAVING HIS OFFICE AT ASSAM SECRETARIAT, DISPUR, GUWAHATI,
DISTRICT- KAMRUP(METRO), ASSAM, PIN CODE- 781006.

2:THE UNDER SECRETARY
TO THE GOVT OF ASSAM
FINANCE DEPARTMENT
DISPUR
GUWAHATI-06

3:THE ASSAM STATE AGRICULTURAL MARKETING BOARD
REP. BY ITS CHAIRMAN
RAMAKRISHNA MISSION ROAD
ULUBARI
GUWAHATI-07

4:THE CHIEF EXECUTIVE OFFICER
ASSAM STATE AGRICULTURAL MARKETING BOARD

RAMAKRISHNA MISSION ROAD
ULUBARI
GUWAHATI-0

Advocate for the Petitioner : MR. P SARMA,

Advocate for the Respondent : SC, FINANCE, MR. N J GOGOI, SC, AGRI. DEPARTMENT, SC,
AGRICULTURE MARKETING BOARD.

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 21.01.2026

Heard Mr. P. Sarma, learned counsel for the petitioner. Also heard Ms. R. Bora, learned Standing Counsel, Agriculture Department, appearing for the respondent no.1 and Mr. N. J. Gogoi, learned Standing Counsel, Assam State Agricultural Marketing Board, i.e., the respondent nos.3 and 4.

2. The petitioner, in the present proceedings, has raised a grievance with regard to the non-authorization to him of his second MACP benefits w.e.f., 01-01-2017, resulting in drawal by him of his salaries at a lower stage.

3. The petitioner, herein, was initially appointed as a Marketing Inspector on ad-hoc basis vide an order dated 12-03-1996. The services of the petitioner was subsequently regularized and was authorized a scale of pay. The petitioner, vide an order dated 12-12-2014, came to be promoted to the post of Senior Marketing Inspector.

The Government of Assam in the Finance (Pay Research Unit) Department had issued a notification dated 06-07-2017, notifying the Modified Assured Career Progression Scheme. In terms of the said scheme, financial upgradation benefits are to be extended to the employees on completion of 10 years, 20 years and 30 years of service, in the event, such employee has not been granted promotions in the meanwhile. The financial benefits under the said scheme was to be so extended w.e.f., 01-01-2017. The said scheme was adopted by the

Assam State Agriculture Marketing Board for its employees. Upon adoption of the said scheme, the benefit, thereof, was extended to the employees of the Board.

However, the same benefit was not extended in respect of the petitioner, herein.

The Respondent Board vide a notification dated 23-07-2024, notified a voluntary retirement scheme for its employees. The petitioner in pursuance to the said notification dated 23-07-2024, submitted his application for proceeding on voluntary retirement.

The second MACP benefit not having been extended to the petitioner, he apprehending that his VRS benefits would now be calculated at a lower stage, inasmuch as, the said benefit is so calculated basing on the salary drawn by the employee on the date the application for proceeding on voluntary retirement is submitted, approached this Court by way of instituting the present proceedings, praying for the reliefs noticed, hereinabove.

4. Mr. P. Sharma, learned counsel, for the petitioner, after reiterating the facts noticed hereinabove, has submitted that the petitioner was entitled in terms of the MACP scheme for being authorized his second MACP benefit w.e.f., 01-01-2017, inasmuch as, he had completed 20 years of service by then.

Mr. P. Sharma, further submits that persons similarly situated like the petitioner, herein, were extended with the benefit of MACP scheme w.e.f., 01-01-2017. However, for reasons not known, the same was not extended to the petitioner, herein. Mr. P. Sharma, further submits that during the pendency of the present proceedings, the petitioner had proceeded on voluntary retirement in terms of the scheme applicable.

However, the respondent authorities had calculated his VRS benefits without accounting for the MACP benefits due to him w.e.f., 01-01-2017 and as such he has been denied his due service benefits, and was required to draw his voluntary retirement benefits at a lower stage.

5. Per contra, Mr. N. J. Gogoi, learned Standing Counsel, Assam State Agriculture Marketing Board, submits that the petitioner having opted for voluntary retirement scheme and he having already received part of the VRS benefits, the Board is not in a position to grant to the petitioner the benefit of Modified Assured Career Progression Scheme. Mr. N. J. Gogoi, submits that as per the notification dated 15-02-2006 issued by the Department of Public Enterprises, the VRS benefits is to be calculated only basing on the basic pay and rate of dearness allowance as on the date of application submitted by an employee opting for proceeding under voluntary retirement in terms of the scheme applicable. He further submits that the petitioner having proceeded on voluntary retirement in terms of the scheme, in question, the petitioner's VRS benefits were duly computed by reckoning the basic pay and rate of dearness allowance drawn by him on the date he had submitted his application for proceeding on voluntary retirement basis.

He submits that in terms of the scheme of the Government of Assam, which was adopted by the Board, the MACP benefits not having been granted to the petitioner prior to the date of submission by him of his application for proceeding on voluntary retirement basis, the said benefit now is not permissible to be extended to the petitioner, herein, and his VRS benefits would be the one that has been computed by reckoning the basic pay and rate of dearness allowance drawn by the petitioner on the date he had submitted his application for proceeding on voluntary

retirement basis.

6. I have heard the learned counsel for the parties and perused the materials available on record.

7. It is not in dispute that the petitioner on 01-01-2017 had completed 20 years of service in the Board. The petitioner's case is covered by the MACP scheme notified by the State Government vide notification dated 06-07-2017. The said scheme Modified Assured Career Progression (hereinafter referred to as the MACP), notified by the Government of Assam, vide notification dated 06-07-2017 was adopted by the Board for its employees. The said scheme contemplates grant of financial upgradation benefits to the employees on completion of 10 (ten) years, 20 (twenty) years and 30 (thirty) years of service, provided that the employees do not get one regular promotion within the first 10 years or two regular promotions/ACPS benefits within 20 (twenty) years or 3 (three) promotions/ACPS benefits within 30 (thirty) years of regular service.

8. The petitioner, herein, admittedly had completed 20 (twenty) years of service on 01-01-2017 and had received one ACPS benefit prior thereto. Accordingly, in terms of the MACP scheme, the petitioner was entitled to receive his second MACP benefit w.e.f., 01-01-2017. However, the same was not extended to the petitioner, herein.

9. The respondent authorities had in the present proceedings initially filed an affidavit, wherein it was contended that the MACP scheme was adopted by the Board for its regular employees w.e.f., 01-01-2017 and the petitioner having completed 20 (twenty) years of

service in the month of March 2016, he was entitled to be granted the second MACP w.e.f., 01-01-2017, as he had already availed one ACPS during his service period. It was further contended in the said affidavit that the grant of second MACPs benefit to the petitioner, is being examined and would be intimated in due course. However, the respondent authorities proceeded to file a second affidavit in the matter and therein, had raised a plea to the effect that the petitioner having proceeded on voluntary retirement basis and he having received part payment of his benefits under the voluntary retirement scheme, his claim for grant of second MACP benefit would not be permissible.

It was also projected that in terms of the notification dated 15-02-2006, issued by the Department of Public Enterprises, Government of Assam, with regard to the revised policy on Voluntary Retirement Scheme (VRS) for the employees of State Level Public Enterprises of Assam, the VRS benefits would be computed basing on the basic pay and rate of dearness allowance as applicable on the date of submission of application by the employee concerned opting for proceeding on voluntary retirement basis.

10. While it is not disputed that the petitioner had applied for proceeding on voluntary retirement in terms of the applicable Scheme on 12-08-2024 and subsequently the same was accepted and he was permitted to proceed on voluntary retirement basis, the MACP benefit i.e., due to the petitioner is not one that was so due after he had submitted his application for proceeding on voluntary retirement basis on 12-08-2024, but was a benefit which was required to be authorized to the petitioner w.e.f.,01-01-2017. The plea raised by the respondents in the present proceedings is to the effect that the petitioner in view of the

provision as incorporated in the notification dated 15-02-2006 would be entitled to draw his Voluntary Retirement benefits only on the basis of the basic pay and rate of dearness allowance as drawn by him on the date of submission of application by him for proceeding on voluntary retirement basis, the MACP benefits not having been authorized to him as of 12-08-2024, he would not be entitled to reckon the same for the purpose of computation of his Voluntary Retirement benefits.

11. The said plea as raised by the Respondents, in the considered view of this Court is not acceptable, inasmuch as, the petitioner admittedly was entitled to be authorized his second MACP benefit w.e.f., 01-01-2017 in terms of this applicable scheme. The respondent authorities have also not brought on record any material to demonstrate that the petitioner was not entitled to be authorized his second MACP benefits w.e.f., 01-01-2017. The said MACP Scheme benefit being a beneficial scheme introduced by the respondent authorities to ameliorate the stagnation of employees in the post held by them, without there being any promotion effected in their respective cases, the said scheme is required to be extended to the petitioner w.e.f., the date he was entitled to draw the second MACP benefits, thereunder. The subsequent event of the petitioner proceeding on voluntary retirement, which had occasioned sometime in the year 2024, in the considered view of this Court would not have the effect of denying to the petitioner drawal of his due benefits under the MACP scheme, which was due to him w.e.f., 01.01.2017.

12. In view of the above conclusions, this Court is of the considered view that the petitioner is entitled to be authorized his second MACP

benefit w.e.f., 01-01-2017 in terms of the applicable scheme of the Government of Assam as adopted by the Board. Accordingly, the respondent authorities more particularly, the respondent nos.3 and 4 are directed to authorize to the petitioner his second MACP benefit w.e.f., 01-01-2017. On authorization of the second MACP benefit to the petitioner, the respondent authorities are required to re-fix the pay of the petitioner w.e.f., 01-01-2017 and thereafter to compute the arrears receivable by the petitioner w.e.f., 01-01-2017 till the date he has proceeded on voluntary retirement basis. The arrears so working out, be released to the petitioner within a period of 3 (three) months from the date of receipt of a certified copy of this order.

13. Further, on re-fixation of the pay of the petitioner w.e.f., 01-01-2017, by reckoning the second MACP benefit due to him w.e.f., the said date, the respondent authorities now shall compute the voluntary retirement benefits due to the petitioner by reckoning the basic pay drawn now required to be authorized to the petitioner on the date of submission of his application for proceeding on voluntary retirement basis and release to the petitioner the arrears thereof within a period of 6 (six) months from the date of receipt of a certified copy of this order.

14. With the above observations and directions, the present writ petition stands disposed of.

JUDGE