

IN THE HIGH COURT OF JHARKHAND AT RANCHI**W.P.(S) No. 3466 of 2015**

Bhola Prasad Singh, son of Late Deo Nandan Singh,
resident of Adalbari, P.O-Hazipur, Two Police Station,
District - Vaishali (Bihar) **..... Petitioner (s)**

Versus

1. The State of Jharkhand
2. The Principal Secretary, Department of Welfare,
Government of Jharkhand, Project Building, HEC
Colony, P.O. Dhurwa, P.S. Hatia, District Ranchi
- 3 The Deputy Secretary, Department of Welfare,
Government of Jharkhand, Project Building, HEC
Colony, P.O. Dhurwa, P.S. Hatia, District Ranchi.
4. The Principal, Scheduled Tribe Residential High
School, Banjhi, Sahebganj, P.O. & P.S. & District –
Sahebganj
5. The Accountant General (A&E), Jharkhand,, having
its office at Doranda, P.O. & P.S.-Doranda, District -
Ranchi. **..... Respondent(s)**

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioner(s) : Mr. Prabhat Kr. Sinha, Advocate
For the Resp.-State : Mrs. Amrita Banerjee, A.C. to G.P.-I

C.A.V. ON 04/11/2025**PRONOUNCED ON: 19/01/2026**

Heard learned counsel for the parties.

2. In the instant writ application the petitioner has
prayed for the following reliefs:-

*(i) For issuance of an appropriate writ(s), order(s) or
direction(s) of or in the nature of mandamus commanding
upon the respondents concerned to immediately and
forthwith give confirmation of the 2nd ACP granted to the
petitioner vide Office Order No. 422 dated 26.2.2008 with
effect from 15.9.2005 in the pay scale of Rs. 8000 -13500,
since the pension papers of the petitioner was returned by
the Accountant General, Jharkhand, Ranchi (Respondent
No. 5) pointing that confirmation order of 2nd ACP granted*

to the petitioner is wanting and thereafter, pension paper of the petitioner could not be forwarded for fixation of pension after rectifying the defect though the petitioner has retired from his service on 30.9.2011 itself.

(ii) For issuance of a further appropriate writ(s), order(s) or direction(s) of or in the nature of mandamus commanding upon the respondents concerned to immediately and forthwith send the pension papers of the petitioner after rectifying the defect to the Accountant General, Jharkhand, Ranchi (Respondent No. 5) for fixation of pension and payment of current as well as arrears of pension of the petitioner who retired way back on 30.9.2011 but his pension has not been finalized till;

(iii) For issuance of a further appropriate writ(s), order(s) or direction(s) of or in the nature of mandamus commanding upon the respondents concerned to make correction in the pay scale of the petitioner in the scale of Rs. 7500-12000 instead of Rs. 6500-10,500 pursuant to the pay revision with effect from 01.01.1996 and to make payment of difference of salary;

(iv) For issuance of a further appropriate writ(s), order(s) or direction(s) of or in the nature of mandamus commanding upon the respondents concerned to grant the benefits of MACP to the petitioner, who, after serving for more than 30 years, retired from service on 30.9.2011 and as such the petitioner is entitled for grant of 3rd MACP with effect from 19.5.2009, which has not been given to the petitioner till date as well as for payment of all consequential monetary benefits including arrears of salary together with interest @ 15% per annum over and above the statutory interest.

(v) For issuance of a further appropriate writ(s), order(s) or direction(s) of or in the nature of certiorari for quashing part of memo no. 566 dated 16.03.2013; whereby and whereunder the benefits of the second ACP given to the

petitioner vide order contained in Memo No. 422 dated 26.02.2008 in the pay scale of Rs. 8,000-13,500 has been verified in lower pay scale of 7,500-12,000 illegally) and also the subsequent order of withdrawal of second ACP vide Memo No. 2982 dated 23.09.2015 passed by Special Secretary, Welfare Department, Government Of Jharkhand, Ranchi annexed as Annexure -D & E respectively to the counter affidavit.(Allowed vide order dated 07.12.2020 passed I.A . no. 4575 of 2020).

3. The brief facts of the case as per the pleadings is that the petitioner was appointed on 19.05.1979 on the post of Assistant Teacher in the Scheduled Tribe Residential High School, Garu, District Palamau. Petitioner was given promotion on the post of B.A. Trained Teacher in the pay scale of Rs. 415-745 on 15.09.1981. Subsequently the petitioner was given promotion in the Junior Selection Grade in the pay scale of Rs. 1800-3300. On 12.11.1998 the Petitioner was given promotion to the post of Headmaster and accordingly he was posted in the Scheduled Tribe Residential High School, Ramchak, Saran in the pay scale of Rs. 2200-4000.

The Director, Department of Welfare, Government of Bihar vide office order dated 23.11.1999 granted the Petitioner and other similarly situated persons the benefit of promotion to the post of Senior Selection Grade with effect from 1.7.1991 in the pay scale of Rs. 2200-4000 and

thereafter, on 26.2.2008, the petitioner was given the benefits of 2nd A.C.P. with effect from 15.9.2005 in the pay scale of Rs. 8000-13,500.

Vide Departmental letter no. 829 dated 11.02.1999, the scale of Headmaster in the pay scale of Rs. 2200-4000 has been merged with the scale of Senior Selection Grade. At the time of pay revision w.e.f. 01.01.1996 Respondents have fixed the scale of the petitioner in the pay scale of Rs. 6500 -10,500 instead of Rs. 7500 – 12000.

Petitioner retired from the post of Headmaster, Scheduled Tribe Residential School, Banjhi, Sahebganj on 30.09.2011. When the Pension papers of the petitioner was sent for fixation of pension to the Accountant General, Jharkhand, Ranchi, it were returned with objection that the 2nd A.C.P. given to the petitioner has not been confirmed till date.

Petitioner submitted his representation on 28.5.2012 to the Respondent No. 2 requesting therein to pass an order of confirmation of 2nd A.C.P. granted to the petitioner and thereafter to send the pension papers of the petitioner again to the Respondent No. 5 for fixation of pension. Since the fixation of pension of the petitioner is pending because of non-confirmation of A.C.P. benefits, therefore, the petitioner requested him to confirm the 2nd A.C.P. granted

to the petitioner immediately. Thereafter, petitioner also filed the representations to the Respondent No. 2 on 28.09.2013 & 08.12.2014 respectively for rectifying the mistake in revision of scale payment of difference of arrear of salary. When no decision was taken petitioner filed this Writ application.

4. During pendency of this Writ application the respondents have initially reduced the scale of the petitioner of second ACP of the petitioner in the pay scale of Rs 7,500-12,000 in place of Rs. 8,000-13,500 and subsequently vide Memo No. 2982 dated 23.09.2015 has withdrawn the second ACP given to the petitioner much after retirement of the petitioner who has retired way back on 30.09.2011, as such petitioner has challenged the part of order contained in Memo No. 566 dated 16.03.2013 so far as the same relates to the petitioner and Memo No. 2982 dated 23.09.2015 by filing I.A.no.4575 of 2020 which was allowed on 07.12.2020.

5. It has been submitted by Ld. Counsel for the petitioner that he is pressing for the prayer no 1 (a), (c) and (e) as the prayer no 1 (b) and (d) have been redressed.

It has been further submitted that pursuant to the revision of pay scale with effect from 1.1.1996 while fixing the revised scale, the respondents have wrongly fixed the

scale of the petitioner in the pay scale of Rs. 6500-10,500 instead of Rs. 7500-12000. It is clear from the Office Order No. 1917 dated 4.4.2000 issued by the Director, Department of Welfare, Government of Bihar, Patna that replacement scale of 2200-4000 pursuant to pay revision is Rs. 7500 -12000 (Annexure-7).

It has also been submitted that the petitioner has been given promotion to the post of Senior Selection Grade with effect from 01.07.1991 in the pay scale of Rs. 2200-4000 by a subsequent order contained in Memo No. 6334 dated 23.11.1999; however, the petitioner was extended the benefit of promotion to the post of Headmaster vide office order contained in memo no. 5983 dated 12.11.1998 in the pay scale of Rs. 2200-4000.

Under such circumstance, the promotion to the post of Headmaster of the petitioner in the same scale, though given at earlier point of time, is not a promotion since the petitioner remained in the same scale in which he has been shifted by a subsequent order with effect from 01.07.1991 i.e. the scale of Rs. 2200-4000 pursuant to the grant of Senior Selection Grade. Under such circumstance the petitioner is said to have been given only one regular promotion i.e. promotion in the B.A. Trained scale with effect from 15.09.1981 and as such vide office order

contained in memo no. 422 dated 26.02.2008 the petitioner was given the benefits of 2nd A.C.P. with effect from 15.09.2005 in the pay scale of Rs. 8000-13,500.

6. Learned counsel for the petitioner after relying on the judgement of ***State of Bihar vs Md Sanaullah***¹ submits that promotion granted to the petitioner will not stand in the way of grant of time bound promotion due to upgradation/merger of pay scales.

7. It has been submitted by Ld. Counsel for the respondent that the petitioner was not entitled for grant of 2nd A.C.Ps since petitioner has already been allowed two regular promotion; in spite of the same, the petitioner was wrongly allowed 2nd A.C.P. vide Welfare Department order no.422 dated 26.02.2008 with effect from 15.09.2005 in the pay scale of Rs.8,000-13,500/-and the same was confirmed by the Welfare Department Order no.566 dated 16.03.2013 in the pay scale of Rs.7,500-12,000/- with effect from 15.09.2005.

As such in view of Paragraph-3 (V) of the Departmental Sankalp No.5207 dated 14.08.2002, the benefit of 2nd A.C.P. has been withdrawn, vide Welfare Department Order as contained in memo no.2982, Ranchi dated 23.09.2015.

¹ 2009 0 supreme (Pat) 1550

She had further submitted that power to rectify financial discrepancies in pay and pension is vested in the appropriate authorities. As per the rules, if an employee's pension or pay scale is found to have discrepancies, they can be corrected at discretion of the authorities responsible for the pension fixation.

8. Having heard learned counsel for the parties and after going through the documents annexed with the respective affidavits it transpires that mainly two issues are to be decided by this Court:

(i) Whether the action of the respondents in cancelling the 2nd A.C.P. vide order dated 23.09.2015 which was granted earlier vide order dated 26.02.2008, is justified ?

(ii) Whether the petitioner is entitled for correction in the pay scale of Rs.7500-12000 instead of Rs 6500-10,500/- pursuant to pay revision with effect from 01.01.1996 ?

9. So far as first issue is concerned; it transpires that petitioner was given first promotion to the post of B.A. trained teacher on 15.09.1981 and thereafter he has been given 2nd promotion to the post of Head Master on 12.11.1998. Despite the fact that two promotions have already been granted to the petitioner; he is claiming for 2nd

A.C.P.

10. Learned counsel for the petitioner has relied upon ***State of Bihar vs Md Sanaullah (supra)*** wherein Patna High Court has taken reliance upon *Md. Abdul Qaiyum V/s. The State of Bihar and Others reported in 2006(2) PLJR 655*. In the aforesaid judgment the circular/letter dated 16.7.1985 has been considered and it has been held that this letter provides that in the event promotion was given prior to upgradation/merger of lower pay scale to higher scale, such promotion shall not be counted as promotion/for the purpose of granting of first-time bound promotion.

However, in the instant case petitioner was promoted to the post of Head Master in the Pay Scale of 2200-4000 on 12.11.1998 and thereafter vide order dated 23.11.1999 petitioner has been granted the benefit of promotion to the post of Senior Selection Grade with effect from 1.7.1991 in the pay scale of Rs. 2200-4000. Both posts i.e. Headmaster and Senior Selection Grade vide order dated 11.02.1999, in the pay scale of Rs. 2200-4000 have been merged in the same pay scale of 2200-4000 and the judgement relied upon by the petitioner was merger of lower pay scale to higher scale as such is not applicable in the instant case.

11. This Court finds that the petitioner has wrongly

received 2nd A.C.P. vide order dated 26.02.2008 with effect from 15.09.2005 in the pay scale of 8,000-13,500/- and the same was confirmed by the welfare department vide order no. 566 dated 16.03.2013 in the pay scale of 7,500-12000/- with effect from 15.09.2005. However, since the petitioner already received two regular promotions as stated hereinabove, in view of departmental Sankalp no 5207 dated 14.08.2002 the benefit of 2nd A.C.P has been withdrawn vide order as contained in memo no. 2982 dated 23.09.2015. This Court finds no error in the cancellation of 2nd A.C.P. by the respondent authorities as they are having right to correct their mistake.

12. So far as second issue with regard to correction of pay scale of Rs.7500-12000/- instead of Rs 6500-10,500/ with effect from 1.1.1996 while fixing the revised scale is concerned; the respondents have fixed the scale of the petitioner in the pay scale of Rs. 6500-10,500 instead of Rs. 7500-12000.

It transpires from the Office Order No. 1917 dated 4.4.2000 issued by the Director, Department of Welfare, Government of Bihar, Patna that replacement scale of 2200-4000 pursuant to pay revision is Rs. 7500 -12000. For brevity, it is necessary to quote relevant part of aforesaid order i.e.(Annexure 7).

कोटि	वर्तमान वेतनमान	पुनरीक्षित वेतनमान	वर्तमान वेतनमान	पुनरीक्षित वेतनमान
वरीय प्रवर कोटि	-2200-4000	---	2200-4000	7500-12000

13. After going through the aforesaid order this Court finds that there is apparent error in pay fixation as per its own department letter dated 04.04.2000. This Court holds that petitioner is entitled for pay fixation in the scale of Rs. 7500-12000 instead of Rs. 6500-10,500/- as such respondent is directed to pay fixation in the scale of Rs. 7500-12000/-and thereafter extend the consequential benefits to the petitioner within period of eight week from the receipt of copy of this order.

14. From Order dated 10.09.2015 it transpires that stay was granted by this Court to recover excess salary amounting to Rs 87,498/- paid to the petitioner. There was no fraud or misrepresentation on the part of petitioner as such respondent is restrained from recovering any amount from the petitioner who has already retired in the year 2011.

15. In view of the aforesaid findings this application is partly allowed. Pending I.A.s, if any also stands disposed of.

(Deepak Roshan, J.)

Dated:19 / 01/2026
Amardeep/
A.F.R

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21/01/2026