

Ram Lala Thakur Vs State Of Jharkhand

Court: Jharkhand High Court

Date of Decision: Jan. 28, 2025

Hon'ble Judges: Ananda Sen, J

Bench: Single Bench

Advocate: Binay Kumar Pathak, Sanjay Kumar Singh, Kapil Ansul, Munna Lal Yadav, Deepak Kumar, Amit Kr. Verma

Final Decision: Allowed

Judgement

Ananda Sen, J

1. By way of filing this writ petition, the petitioner has sought for following reliefs:-

I. “For issuance of an appropriate writ in the nature of mandamus commanding upon the respondents to give him the monetary benefits of 1st and 2nd Time

Bound Promotion for which he became entitled on 01/03/1983 and 01/03/1993 respectively after completion of 10 years and 20 years of service and thereafter

ACP for which he is entitled to and the Respondent be further directed to give MACP after completion of 30 years of regular service to the petitioner for which he

is entitled with due interest.

II. For issuance of an appropriate writ in the nature of Certiorari for quashing and setting aside the Reasoned Order dated 07/12/2020 (Annexure-1) passed by

the Director, Provident Fund Directorate, Planning-cum-Finance Department, Jharkhand, Ranchi (Respondent No.2) vide Office Order No.GPF-41-302/2018

61/Provident Fund wherein and whereunder the Respondent No.2 has denied to give him the monetary benefits of 1st and 2nd Time Bound Promotion and

thereafter ACP and MACP to the petitioner on the ground that the petitioner has not passed the Accounts Examination First in his Service Period.

2. Heard learned counsel for the petitioner and the State.

3. Learned counsel representing the petitioner submits that the petitioner has been denied the benefit of ACP and MACP only on the ground that he

had not passed the departmental examination. As per his contention, for grant of ACP and MACP the question of passing the departmental

examination does not arise as by grant of ACP and MACP, only the scale is upgraded to avoid stagnation and no substantive promotional post is

granted to any of the employees.

4. Learned counsel representing the State submits that as the petitioner did not pass the departmental examination i.e. the Accounts Examination, his

case for grant of ACP and MACP was turned down.

5. A similar type of dispute arose before the Hon'ble Supreme Court in the case of *Amresh Kumar Singh & Ors. Vs. State*

of Bihar & Ors. reported in 2023 SCC OnLine SC 496 (decided on 25th April, 2023).

In the aforesaid case, the grant of ACP was denied, as the candidates did not possess their minimum qualification i.e. Graduation, which was

prescribed for promotion to the next higher post. The Hon'ble Supreme Court while dealing with the aforesaid case, had held that the object of the

ACP is to avoid stagnation where no promotional avenues are available. The grant of ACP is not technically a grant of promotion but increase in the

pay scale to the next higher grade. This is granted to the employees on the post held by them without disturbing seniority and for avoiding stagnation.

The Hon'ble Supreme Court also relied upon the judgment of *Union of India v. C.R. Madhava Murthy* reported in (2022) 6 SCC 183. It is

necessary to quote para-13, 15 and 16 of the judgment of *Amresh Kumar Singh* (supra), which are as hereunder:-

“13. At the cost of repetition, it must be borne in mind that the object of ACP is to avoid stagnation where no promotional avenues are available. The grant of

ACP is not technically a grant of promotion but increase in the pay scale to the next higher grade retaining the employee on the post held by him. This is only to

accord monetary benefit without disturbing any seniority or actually effectuating promotion to any higher post to avoid stagnation on a particular post or pay

scale for a very long period.

15. In sum and substance, both ACP and MACP Schemes are schemes devised with the object of ensuring that the employees who are unable to avail of adequate

promotional opportunities, get some relief in the form of financial benefits. Accordingly, the schemes provide for regular financial upgradation on completion of

12-24 years and 10-20-30 years of service without promotion. They are incentive schemes for the employees who complete a particular period of service but

without getting promotion for lack of promotional avenues. The effect of the schemes must be judged keeping in view the object and the purport of the scheme.

16. In *Union of India v. G. Ranjanna* reported in (2008) 14 SCC 721, the three-Judges Bench of this Court held that in situ promotions are made to remove

stagnation of grade C and grade D employees by giving them certain monetary benefits.”

The Hon'ble Supreme Court, further in para-17 of the aforesaid judgment i.e. *Amresh Kumar Singh* (supra), has observed that fulfilment of

educational qualification prescribed under the Recruitment Rules for the purpose of promotion are not necessary for non-functional in situ promotion.

It is necessary to quote para-17, which reads as hereunder:-

17. It was further observed that fulfilment of educational qualifications prescribed under the recruitment rules for the purposes of promotion are not necessary

for non-functional in situ promotion. In other words, educational qualification required for the purposes of promotion is not necessary for the grant of in situ

promotion, i.e., only for extending the monetary benefits where there are no promotional avenues and the employees are likely to be stagnated.

The Hon'ble Supreme Court thereafter by holding that it is only enhancement of the pay scale on the same post to avoid stagnation, had allowed

the Appeals preferred by the employees by granting them benefits.

6. The situation is similar here.

7. Admittedly, the petitioner has not passed the Accounts Examination. The petitioner herein is praying for grant of ACP and MACP which are

nothing but an enhancement of the pay scale on the same post to avoid stagnation.

8. In my open view, this case is squarely covered by the judgment of the Hon'ble Supreme Court rendered in the case of Amresh Kumar Singh

(supra). Thus, this writ petition is allowed.

9. The respondents are directed to give the benefit of the ACP and MACP to the petitioner and pay the arrears including refixation of the pensionary

and retiral benefits.