

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**  
**W.P.(S) No. 4235 of 2021**

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Shailesh Kumar Singh, aged about 67 years, son of Late Rajendra Prasad Singh, resident of House no. 4A, Shyam Bachau Path, Uliyan Kadma, P.O. & P.S.- Kadma, Town-Jamshedpur, District- East Singhbhum.

.... **Petitioner(s)**

-VERSUS-

1. The State of Jharkhand, through the Secretary / Principal Secretary, School Education and Literacy Department, having office at MDI Building, Dhurwa, P.O. & P.S.- Dhurwa, Town and District- Ranchi.

2. The Director, Secondary Education, School Education and Literacy Department, Government of Jharkhand, having office at Secondary Education Directorate, MDI Building, Dhurwa, P.O. & P.S.- Dhurwa, Town and District- Ranchi.

3. Regional Deputy Director of Education, Kolhan Division, Chaibasa, having office at Chaibasa, P.O. & P.S. Chaibasa, District-West Singhbhum.

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**.....Respondent (s)**

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**CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN**

For the Petitioner(s) : Mr. Manoj Tandon, Adv  
Mrs. Neha Bhardwaj, Adv  
Mr. Shubham Kumar, Adv  
Ms. Shivani Bhardwaj, Adv  
Mr. Karamjit S. Chhabra, Adv

For the Respondent (s) : Mr. Kunal Chandra Suman, A.C. to G.P.-II

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**05/01.07.2026**

1. Heard learned counsel for the parties.
2. The writ petition has been preferred for a direction to quash and set aside the decision contained in Letter No.550 dated 20.07.2021 (Annexure-11), issued by Regional Deputy Director of Education, Kolhan, Chaibasa; whereby the claim of the petitioner has been rejected. The petitioner has further prayed for a direction upon the respondents to grant the benefits of 3<sup>rd</sup> MACP according to Resolution dated 01.09.2009 in the Pay Band of PB-II, 9300-34800 with Grade Pay of 4800 and thereby to modify the office order contained in Memo No.64 dated 30.01.2019 (Annexure-8), so far it relates to the petitioner. Other consequential benefits have also been prayed for in the writ petition.

**BRIEF FACTS:**

3. Writ petitioner was appointed on 01.08.1978 on the post of clerk in South Chotanagpur Division, Ranchi and was posted in the office of District Superintendent of Education, Chaibasa, West Singhbhum. He completed 20 years of service on 01.08.1998 and 30 years on 01.08.2008.

The State of Jharkhand, Department of Finance issued Resolution No.5207/F dated 14.08.2002 for extending the benefit of Assured Career Progression (ACP) on completion of 12 years and 24 years of service.

Subsequently, South Chotanagpur Division was bifurcated and Kolhan Division came into effect in the year 2008. The petitioner's posting came under Kolhan Division.

4. The pay revision was notified by Resolution No.660/A dated 28.02.2009, whereby 6<sup>th</sup> Pay Revision was effected in Jharkhand from 01.01.2006. The pay scales of 5000-8000, 5500-9000 and 6500-10500 were merged in the pay scale of 9300-34800 with Grade Pay of Rs.4200. Modified Assured Career Progression (MACP) Scheme was promulgated on 01.09.2009.

The 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> MACPs were to be granted on completion of 10 years, 20 years and 30 years of service respectively.

5. The Regional Deputy Director of Education, South Chotanagpur Division, Ranchi issued a Memo No.243 dated 20.02.2010; whereby, the clerks, posted under the South Chhotanagpur Division, Ranchi were extended the benefits of 3<sup>rd</sup> MACP in the Grade Pay of 4800 on completion of 30 years of service with effect from 01.09.2008. Ram Lagan Ram and several others similarly situated persons were granted such benefits. Such grant of benefits was also approved by the Divisional Commissioner, South Chhotanagpur Division, Ranchi.

6. The petitioner was extended the benefits of 1<sup>st</sup> ACP in the Scale of 4500-7000 and 2<sup>nd</sup> ACP in scale of 5000-8000. The benefits of 1<sup>st</sup> ACP was granted from 09.08.1999 and 2<sup>nd</sup> ACP with effect from 01.08.2002 on completion of 12 and 24 years of service; though the petitioner was entitled for 5000-8000 and 5500-9000 respectively as 1<sup>st</sup> and 2<sup>nd</sup> ACPs.

7. The petitioner and another filed W.P.(s) No.2170 of 2015 for grant of 5000-8000 and 5500-9000 as 1<sup>st</sup> and 2<sup>nd</sup> ACPs respectively instead of 4500-7000 and 5000-8000. The said writ petition was disposed of on 13.11.2017 directing the respondents to pay the pay scale of 5000-8000 and 5500-9000 respectively for 1<sup>st</sup> and 2<sup>nd</sup> ACPs to the petitioner and another.

This led to issuance of Memo No.64 dated 30.01.2019 by RDDE, Kolhan Division, Chaibasa and the 1<sup>st</sup> and 2<sup>nd</sup> ACPs were granted to the

petitioner in the scale of 5000-8000 and 5500-9000 from 09.08.1999 and 01.08.2002 respectively.

The petitioner, however, was extended the benefits of 3<sup>rd</sup> MACP with effect from 01.09.2008 in the Grade Pay of 4600 though as per the petitioner, he is entitled for 4800. The petitioner submitted representation on 18.06.2021, but the same was rejected by Letter No.550 dated 20.07.2021, which is impugned in the writ petition.

**ARGUMENT Of The PETITIONER:**

8. Mr. Manoj Tandon, learned Counsel appearing for the petitioner submits that from perusal of MACP Scheme dated 01.09.2009 (Annexure-3 to the writ petition), more particularly Clause 5 of Appendix-I, it is evident that the merger of two pay scales shall have no bearing on grant of the benefits under the MACP Scheme as the same was fit to be ignored. While assailing Annexure-11, being Letter No.550 dated 20.07.2021, learned Counsel contended that no reason has been assigned as to why the petitioner shall be entitled for Grade Pay of 4600 instead of 4800.

He contended that merger of scales has nothing to do with grant of MACP in view of Clause 5 of Appendix-I of MACP Scheme dated 01.09.2009.

9. He further submits that from bare perusal of Annexure-4 dated 19.02.2010, it is evident that the Clerks/Stenographers are entitled for 3<sup>rd</sup> MACP benefits in the Grade Pay of 4800. This decision, however, was taken by the Regional Deputy Director of Education, South Chotanagpur Division, Ranchi, from where Kolhan Division was carved out in the year 2008.

Merely because of creation of new Kolhan Division in 2008, the petitioner cannot be deprived of such benefits, which has already been given to many persons including Shri Ram Lagan Ram whose position appears at Sl. No.1, thereof. He further submits that this petitioner was already granted the pay scale of 5500-9000 on grant of 2nd ACP and hence he is entitled for 3<sup>rd</sup> MACP in the Grade Pay of 4800.

Learned Counsel for the petitioner further submits that even as per Annexure-‘H’ of the counter affidavit filed by respondents, it is crystal

clear that 3<sup>rd</sup> MACP benefits were extended in the Grade Pay of 4800 to those who were working in the South Chotanagpur Division, Ranchi.

10. Mr. Tandon, lastly submits that merely because the petitioner was working in Kolhan Division, Chaibasa, he may not be held disentitled for the grant of 3<sup>rd</sup> MACP benefits in the Grade Pay of 4800. Learned Counsel submits that pursuant to order dated 08.09.2022 passed in this writ petition, a supplementary counter affidavit has been filed, but the issue raised has not been answered.

In nutshell the submission of the petitioner is that once such benefits have been extended to the Clerks posted in South Chhotanagpur Division, Ranchi, the petitioner is also entitled for the same benefits though he was working in Kolhan Division which was carved out in 2008 from South Chhotanagpur Division, Ranchi.

**ARGUMENT OF THE RESPONDENTS:**

11. Learned AC to GP-II appearing on behalf of the respondents submits that a detailed counter affidavit has been filed by the respondents stating, inter alia, that as per the ACP Scheme dated 14.08.2002, the petitioner was granted the benefits in the scale of 5000-8000 as 1<sup>st</sup> ACP which was not proper and the same was wrongly granted. He further submits that several others were granted the benefits of 3<sup>rd</sup> MACP in the Grade Pay of 4800, but the same was later on modified which led to filing of W.P.(s) No.6760 of 2017. The writ petition was allowed on 01.08.2018 and thereafter L.P.A. No.666 of 2018 was preferred in which notices were issued.

Learned Counsel for the State further submits that the pay scales of 5000-8000 and 5500-9000 were merged with the pay scale of 6500-10500. In view of such merger the petitioner is entitled for Grade Pay of 4600 only on grant of 3<sup>rd</sup> MACP.

12. While referring to paragraph no.13 of the main counter affidavit, learned Counsel for the State submits that in compliance of the order passed in W.P.(s) No.2170 of 2015, the earlier pay scale granted was revised to 5000-8000 and 5500-9000 with effect from 09.08.1999 and 01.08.2002 respectively on grant of 1<sup>st</sup> and 2<sup>nd</sup> ACPs. He, therefore, submits that the petitioner is not entitled for the reliefs sought for and the writ petition deserves to be dismissed.

**REASONS:**

13. I have heard learned Counsel for the parties and perused the materials on record. The writ petition deserves to be allowed for the following facts and reasons:-

(a) The facts are not in dispute. Initially the petitioner was granted the benefits of 1<sup>st</sup> and 2<sup>nd</sup> ACPs in the pay scales of 4500-7000 and 5000-8000. The petitioner and others, being aggrieved, filed writ petition before this Court. In the light of the order passed in W.P.(s) No.2170 of 2015 such benefits were revised and the petitioner was granted 5000-8000 and 5500-9000 respectively on grant of 1<sup>st</sup> and 2<sup>nd</sup> ACPs, which is not in dispute. Once this petitioner was already in pay scale of 5500-9000 on grant of 2<sup>nd</sup> ACP, it is natural that the petitioner would get the Grade Pay of 4800 on grant of the benefits of 3<sup>rd</sup> MACP on completion of 30 years of his service.

(b) The statement made in paragraph no.12 of the supplementary counter affidavit filed by respondents is highly contemptuous. Regional Deputy Director of Education, West Singhbhum (Shri Abhay Shankar) has sworn the affidavit contending, inter alia, that the benefits of 5000-8000 was wrongly granted to the petitioner. This statement made in paragraph no.12 runs contrary to the decision of this Court in W.P.(s) No.2170 of 2015, placed at Annexure-7 of the writ petition. Not only this, this order passed by the Co-ordinate Bench of this Court was duly complied with by Regional Deputy Director of Education, Kolhan Division, Chaibasa, which is evident from Office Order contained in Memo No.64 dated 30.01.2019, placed at Annexure-8 of the writ petition. Once this fact has not been disputed, the deponent of supplementary counter affidavit cannot have audacity to make such statement that such benefit was wrongly granted.

(c) The stand of State-respondent that against the order passed in W.P.(s) No.6706 of 2017, L.P.A. No.666 of 2018 was preferred and notices were issued also has no bearing on the fate of this case, inasmuch as, such L.P.A. No.666 of 2018 was dismissed on 08.08.2023 itself. Moreover, the fact remains that order passed in the

case of petitioner was never challenged by the state and, in fact, the same was complied.

(d) When this writ petition was heard on 08.09.2022 the Co-ordinate Bench this Court, while referring the facts of this case, directed the respondent-State to file a short counter affidavit explaining as to why this petitioner has been discriminated. The issue raised in the order dated 08.09.2022 by the Co-ordinate Bench of this Court has not at all been answered by the respondents, though the supplementary counter affidavit was filed thereafter.

Strangely enough, many other aspects have been highlighted, but the issue and the points posed by this Court have been purposely avoided by the deponent of supplementary counter affidavit.

(e) The order impugned contained in Letter No.550 dated 20.07.2021 is absolutely without any reason. The impugned order is cryptic and has no leg to stand in the facts of this case. The petitioner has submitted a detailed representation in the shape of Annexure-9 which is dated 18.06.2021, but the respondent concerned has not bothered to answer the issue raised therein.

It is well settled that the reasons cannot be supplemented in the shape of counter affidavit. The reasons are required to be mentioned in the order under challenge. This Court finds that when others have been extended such benefit in South Chotanagpur Division, Ranchi, the petitioner is also entitled for the same. If a contrary view is taken, the reasons have to be assigned. However, the same is totally absent in the impugned order dated 20.07.2021. In this context, it is profitable to refer the judgment of the Hon'ble Supreme Court of India in the case of *Mohinder Singh Gill Vs. Chief Election Commissioner*, reported in (1978) 1 SCC 405. Paragraph 8 reads thus:

"8. *The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to Court on account of a challenge, get validated by additional*

*grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji:*

**Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.**

*Orders are not like old wine becoming better as they grow older.*

[emphasis supplied]

(f) It has rightly been pointed out by the learned Counsel for the petitioner that since the petitioner was already getting the pay scale of 5500-9000 on grant of 2<sup>nd</sup> ACP, he is entitled for 3<sup>rd</sup> MACP benefits in the Grade Pay of 4800. Order issued by Regional Deputy Director of Education, South Chotanagpur Division, Ranchi dated 19.02.2010 is on record as Annexure-4, as per which a number of persons were granted the benefits of 3<sup>rd</sup> MACP in the Grade Pay of 4800. Not only this even Annexure-‘H’ to the main counter affidavit, filed by the respondents, discloses that the 3<sup>rd</sup> MACP benefits were granted to similarly situated persons in the Grade Pay of 4800. In the same Office Order the name of this petitioner also appears under the caption “**Kolhan Division, Chaibasa**” wherein the name of this petitioner appears but he has been granted the Grade Pay of 4600 on grant of 3<sup>rd</sup> MACP that too without disclosing any reason therefor. This is nothing but a clear-cut violation of Article 14 of the Constitution of India. The similarly situated person, like petitioner, has been treated differently that too without there being any reasonable classification. Merely because this petitioner was then posted in Kolhan Division, the same would not be a ground to deprive the benefits which was already granted to many persons in the South Chotanagpur Division, Ranchi.

(g) It further appears that for every benefit the petitioner had to approach this Court. From the facts of the case, it appears that this petitioner filed writ petition earlier, being W.P.(s) No.2170 of 2015

with another. The writ petition was disposed of on 13.11.2017 with a direction to pay the benefits of 1<sup>st</sup> and 2<sup>nd</sup> ACPs at the pay scale which was granted to others. Pursuant thereto; Office Order dated 30.01.2019 was issued and the petitioner was extended the benefits of 1<sup>st</sup> and 2<sup>nd</sup> ACPs in the scales of 5000-8000 and 5500-9000.

Once this issue was settled, the next benefit of 3<sup>rd</sup> MACP was required to be given to the petitioner in accordance with law. But, however, the petitioner has again been constrained to knock the door of this Court which cannot be countenanced. Once the order was passed by this Court and the same was complied, the respondent concerned should have acceded the request of the petitioner to put him in the proper pay scale on grant of 3<sup>rd</sup> MACP benefits. This action of the respondent, in the present case, is highly arbitrary, unconstitutional and, in fact, in colourable exercise of power and nothing else.

**CONCLUSION:**

14. In the light of what has been held above, the impugned order contained in Letter No.550 dated 20.07.2021 (Annexure-11), is set aside. The respondents are directed to extend the benefits of 3<sup>rd</sup> MACP to the petitioner in the scale of PB-II, 9300-34800 with Grade Pay of 4800 with effect from 01.09.2008 with all consequential benefits.

The difference of amount accrued from the due date till the date of payment must be paid within a period of 8 weeks from the date of receipt of a copy of this order, failing which the same would carry simple interest @ 6% per annum from the date the same was payable till the date of actual payment.

15. Accordingly, the instant writ petition stands allowed. No order as to costs. Pending I.A., if any, stand closed.

**(Deepak Roshan, J)**

01.07.2026

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