

(2009) 08 J&K CK 0008
In the Jammu And Kashmir High Court

Abdul Majid Bhat and Others

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 13-08-2009

Acts Referred:

Citation : (2010) 1 JKJ 688

Hon'ble Judges : Mansoor Ahmad Mir, J

Bench : Single Bench

Judgement

Mansoor Ahmad Mir, J.—It is contended in this writ petition that petitioners 1 to 3 are matriculates with one year In-service Training

Course from Jammu & Kashmir In-service Training Centre, Kokernag, came to be appointed as Watchers in the Fisheries Department. Petitioners

4 and 5 are Graduates and are having one year Inservice Training Course from Jammu & Kashmir Inservice Training Centre, Kokernag, and have

also passed nine months Inland Operative Training Course from Agra, came to be appointed as Watchers in the Fisheries Department in the year

1981 and 1987 respectively.

2. The grievance projected by the petitioners in the writ petition is that prior to 1977, there was only one department known as Department of

Games and Fisheries and the post of watchers existed in the said department. However, in 1977 the department of Fisheries was bifurcated into

two departments i.e. Department of Fisheries and Department of Wild Life. The pay scale of watchers of both the bifurcated departments was Rs.

180-250. The Government in terms of the Jammu & Kashmir Civil Service Revised Pay Rules of 1982 placed the watchers of Department of

Fisheries in the pay scale of Rs. 390-475/390-500, while as the Watchers of the

Wild Life Department were placed in the pay scale of Rs. 410-

625. The Watchers of the Forest Department are also placed in the pay scale of Rs. 410-625. The petitioners made number of representations for

removing the disparity in the pay scales but respondents turned deaf ear constraining the petitioners to file the writ petition in hand. Petitioners have

prayed that respondents be directed to place the watchers/guards of the Fisheries Department in the pay scale of Rs. 410-700 with effect from

January 1982, in the pay scale of Rs. 800-1400 with effect from 01.04.1987, in the pay scale of Rs. 950-1400 with effect from 1.4.1990 and in

the pay scale of Rs. 3050-4590 with effect from 1st January, 1996, with all consequential benefits, on the grounds taken in the writ petition.

3. Respondents have resisted the petition by filing reply on the following grounds:

That the High Court has no jurisdiction to interfere in the fixation of pay. The fixation of the pay is the exclusive jurisdiction of the Pay Commission

and of the Executive. The writ petition is hit by delay and latches for the reason that petitioners have not challenged the order from 1982 till 1992

i.e. till filing of the writ petition. Further it is contended that the writ petition merits to be dismissed for the reason that petitioner had filed writ

petition in the year 1992â?"came to be dismissed as withdrawn. The Watchers of Wild Life Department and Forest Department came to be

placed in separate grades in terms of the Pay Rules of 1982 and 1997. The said rules came to be made as per the recommendations made by the

Pay Commission. The duties and responsibilities and obligations of the Watchers of Fisheries Department and Wild Life Department and Forest

Department are all together different.

4. Keeping in view the facts narrated hereinabove, it is a fact that in the year 1982 the Jammu & Kashmir Civil Services (Revised Pay Rules) came

into force on the recommendations made by the Pay Commission, and the watchers of Wild Life Department as well as Forest Department came

to be put in two separate grades. Right from 1982 till 1992, the petitioners have not challenged the said rules and have not raised any voice.

5. Admittedly, the earlier writ petition filed by the petitioner came to be dismissed as withdrawn.

6. It is a fact that High Court is not an expert to fix pay or direct that a class of employees be placed in a particular pay scale even the Government

cannot do so unless pay commission makes such recommendations and on the basis of the said recommendations the Pay Rules come into force.

7. The designation of Watchers of Fisheries Department also came to be changed and it came to be named as 'Fisheries Guards' in terms of

circular No. 1 of 1997 dated 27th of April, 1994.

8. It is also not denied that Watchers of the Fisheries Department came to be re-designated as Fisheries Guards in the year 1994 but despite of

that the petitioners have sought relief for placing the Watchers of the Fisheries Department in the grade (supra) when the fact of the matter is that

Cadre of Watchers in Fisheries Department is not in place now.

9. In the given circumstances, the writ petition merits to be dismissed which is accordingly dismissed along with all connected CMPs. Interim

direction, if any, shall stand vacated.