
(2019) 06 JH CK 0037

In the Jharkhand High Court

Case No : Writ Petition (S) No. 5674 Of 2007

Binod Kumar Bhagat

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 12-06-2019

Acts Referred:

Citation : (2019) 06 JH CK 0037

Hon'ble Judges : Sanjay Kumar Dwivedi, J

Bench : Single Bench

Advocate : Rajesh Kumar, Gaurav Raj, Apoorva Singh, Krishna Shankar

Final Decision : Dismissed

Judgement

1. Heard Mr. Rajesh Kumar, learned counsel for the petitioner and Mr. Krishna Shankar, learned S.C. (L &C) II for the respondents.

2. By way of filing the instant writ petition, the petitioner has challenged office order dated 03.11.2006, whereby the pay-scale of the petitioner has

been reduced from Rs. 4000-6000/- and Rs. 4500-7000/- to Rs. 3050-4590/- and Rs. 3200-4900/- respectively. Further prayer has been made for

quashing letter dated 22.04.2008 whereby the pay-scale of the petitioner has been revised on the pay-scale of Rs. 4000-6000/- since 09.08.1999 and

Rs. 4500-7000/- since 1.12.2005 and further to pay arrears of salary after fixing pay-scale of Rs. 4000-6000/- since 01.04.1997 and Rs. 4500-7000

since 02.08.1999.

3. The petitioner was initially appointed as daily wages employee as tractor driver vide order dated 23.11.1981. Thereafter, the petitioner's pay-scale

was fixed at Rs. 480/-since 01.12.1981 and vide order dated 09.11.1987 the petitioner's pay-scale was fixed at Rs. 535-765/-. The petitioner and 59

other work charge employees were included in regular establishment pursuant to letter dated 21.12.1990 and thereafter pay-scale of the petitioner was

revised at Rs. 975 pursuant to office order dated 08.11.1993. The petitioner was granted 1st ACP w.e.f. 21.12.2002 in the pay-scale of Rs. 4500-

7000/-. But vide order dated 3.11.2006, the petitioner's pay-scale was reduced from Rs. 4000-6000/- and Rs. 4500-7000/- to Rs. 3050-4590 and Rs.

3200-4900/-. Being aggrieved with the reduction in pay-scale, the petitioner has moved this Court.

4. Learned counsel appearing for the petitioner submits that vide gazette dated 13.12.1999 pay-scale of the driver (Grade I) was fixed at Rs. 1200-

1800, which was later on revised to Rs. 4000-6000 and the petitioner being appointed as Heavy Vehicle driver was given pay-scale of Rs. 4000-6000

vide office order dated 26.05.2000. It has further been submitted that order dated 03.11.2006 is fit to be set aside as after more than 8 years of

granting pay-scale, all of a sudden pay-scale of the petitioner was reduced.

5. In compliance of order dated 01.04.2019, the Executive Engineer, Minor Irrigation Division, Godda, Deputy Secretary, Finance and Under

Secretary, Finance appeared before this Court on the date fixed i.e. on 23.04.2019 to explain the post of driver available in the department. As per

their statement, earlier there were two category of posts i.e. Light Motor Vehicle Driver and Heavy Motor Vehicle Driver and admittedly, the

petitioner was appointed against the post of Heavy Motor Vehicle Driver. It has further been explained that in 5th Pay Revision Commission, both the

posts were merged and single pay-scale has been given. Subsequently in 2007, new rules were framed, in which, drivers were categorized in three

category i.e. Base Category, Grade-I Category and Grade-II Category. It is the case of the respondents that all the drivers are in the same category

of post. This Court vide order dated 23.04.2019 however directed to file affidavit to that effect.

6. In compliance of that order, two supplementary counter affidavits sworn by Deputy Secretary and Under Secretary, Planning-cum-Finance

Department, Government of Jharkhand have been filed in Court, which is accepted. Court Master is directed to tag the same with the record. In both

the affidavits, it has been stated that prior to 5th Pay Revision, for all establishment, the pay-scale granted for the post of Motor Vehicle Driver (Light)

is Rs. 950-1500/- whereas pay-scale granted for the post of Heavy Vehicle Driver is Rs. 975-1540 but in the light of 5th Pay Revision for all

establishment the pay-scale of Rs. 3050 - 4590/- was granted for the post of Motor Vehicle Driver (Light) as well as Heavy Vehicle Driver. It has

further been stated that in the light of 5th Pay Revision for the post of Vehicle Driver (General Category) pay-scale granted is Rs. 3050-4590/-,

Vehicle Driver (Category-II) is Rs. 4000-6000/- and Vehicle Driver (Category - III) is Rs. 4500-7000/-. Further, in the light of 6th Pay Revision, for

all establishment, the pay-scale granted for the post of Motor Vehicle Driver (Light) is PB-I 5200-20200 with G.P. Rs. 1900/- and pay-scale granted

for the post of Heavy Vehicle Driver is also PB-I Rs. 5200-20200 with G.P. 1900/-. Learned counsel for the State further submitted that the petitioner

is already getting benefit of 2nd and 3rd ACP and pay-scale of Rs. 4500-7000/- w.e.f 01.12.2005, as evident from Annexure 15 to the writ petition.

7. Now, the only dispute remains with respect to date of grant of Pay-scales i.e. pay-scales of Rs. 4000-6000/- and pay-scale of Rs. 4500-7000 to be

granted to the petitioner.

8. Mr. Krishna Shankar, learned S.C (L & C) II appearing for the State draws attention of this Court to circular dated 28.03.2001 wherein it has been

stipulated that pay-scales of some of the employees have been found to be enhanced and that needs to be taken care of on the basis of this circular

and accordingly pay-scales of the petitioner has been fixed by the respondents-authorities.

9. In the light of above discussions, no case for interference is made out. Hence, the writ petition is dismissed. However, it is made clear that if any

amount paid in excess there shall be no recovery from the petitioner as it is not the fault of the petitioner.