
(2005) 02 PAT CK 0002
In the Patna High Court
Case No : CWJC No. 11801 of 1999

Dr. Arvind Kumar and Another	Vs	APPELLANT
The State of Bihar and Others		RESPONDENT

Date of Decision : 08-02-2005

Acts Referred:

Citation : (2005) 2 PLJR 103

Hon'ble Judges : Narayan Roy, J

Bench : Single Bench

Advocate : Rajendra Pd. Singh in 11801; M/s Ganesh Pd. Singh and Dr. Ramesh Kumar Singh in 11920, for the Appellant; Amar Nath Singh, Ajatshatru (in 11801), M/s Rajeshwar Prasad and Jitendra Kr. Roy (in 11920), for the Respondent

Final Decision : Dismissed

Judgement

Narayan Roy, J.—Both these writ applications since have been filed for common cause, they have been heard and are being disposed of by this order. These applications are directed against letter No. 5898 dated 30.8.1999 issued by the Commissioner-cum-Secretary, Finance Department as contained in Annexure-9 whereby and whereunder the Commissioner-cum-Secretary has rejected the representation filed by the petitioners for grant of replacement pay-scale of Rs. 3000-4500. A further prayer has also been made by the petitioners for issuance of writ of mandamus commanding upon the respondents to put them in the replacement pay-scale of Rs. 3000-4500, in which scale members of the other services have been placed.

2. Precisely, it is submitted by Learned Counsel for the petitioners that the petitioners were appointed, pursuant to an advertisement and recommendation of the Bihar Public Service Commission, on the post of District Planning Officer in the year, 1983 in the pay-scale of Rs. 1350-2000. Subsequently, the basic pay-scale of Rs. 1350-2000 was revised as Rs. 2400-4150 and the petitioners remained in the same scale even after submission of the report of the 5th Pay

Revision Committee where replacement pay-scale of Rs. 3000-4500 was given to members of the Bihar Administrative Services and other services and thus, the case of the petitioners was discriminated. The Association of the petitioners thereafter submitted a memorandum to the State Government which was referred to Pay Anomaly Committee. However, the Pay Anomaly Committee did not recommend the further upgradation of the pay-scale of the District Planning Officers in the pay-scale of Rs. 3000-4500 on the ground that they had an edge in the basic grade over other services including the Bihar Administrative Services. It is further submitted by Learned Counsel that the State Government has given the replacement pay-scale of Rs. 3000-4500 to the Accounts Controller, Superintendent, Printing & Stationery, Deputy Directors, Bihar Statistics Services, Junior Town Planners, Town Development Department Architectural Draftsman, Reader in Health Department, Lecturers (Teaching Personnel or Dental Services) and Principals in Colleges of Arts and Craftsman and to members of other services. It is also submitted by Learned Counsel that replacement pay-scale of the Planning Officers in Planning & Development Department as well as Welfare Department was revised from Rs. 2400-4150 to Rs. 3000-4500 by the Finance department vide its resolution dated 9.8.1997 and, therefore, the same pay-scale was also admissible to the District Planning Officers as the posts of District Planning Officers and that of Planning Officers in Planning & Development Department were interchangeable.

3. In the background of the submission, Learned Counsel submitted that the petitioners have been made victim of the discriminatory attitude of the State authorities and, therefore, action of the State authorities in rejecting the representation of the petitioners is unreasonable, arbitrary, discriminatory and wholly without jurisdiction.

4. Learned Counsel appearing on behalf of the State, on the contrary, submitted that the petitioners are not members of the State cadre and since their pay-scale was revised as in the pay-scale of Rs. 2400-4150, the same is wholly justified on the ground that they were getting the pay-scale which was much higher than pay-scale granted to the members of the other services and, therefore, the petitioners had an edge over other services. It is further submitted by Learned Counsel that the claim of the petitioners was examined by the Pay Anomaly Committee and the Pay Anomaly Committee refused to interfere in the matter vide order as contained in Annexure-A to the supplementary counter affidavit and thereafter the claim of the writ petitioners was again examined by the Fitment Appellate Committee which was also rejected vide order as contained in Annexure-B to the supplementary counter affidavit.

5. It appears from the materials on record that some of the petitioners had earlier moved this Court for the same self-grievance in CWJC No. 167 of 1994(R) and the writ application was disposed of with a direction to the State authorities to consider the representation of the petitioners for giving them revised pay-scale of Rs. 3000-4500 and pursuant to the order of this Court, representation

filed by the petitioners was considered and the same was rejected by the impugned order as contained in Annexure-9.

6. From Annexure-9. It appears that the cadre of the petitioners was not that of a State cadre and their pay-scale was revised at par with the cadre of employees of the Central Government. It further appears that the pay-scales of District Planning Officer and that of Selection Grade of other services are two different scales in different cadres and, therefore, Pay Anomaly Committee refused to grant gradation scale to the District Planning Officers as the District Planning Officer had an edge in the basic grade over other State Services and the same was maintained in the revised pay-scale of Rs. 2400-4150. The Fitment Appellate Committee also considered the grievances of the petitioners and refused to recommend the pay-scale of Rs. 3000-4500 on the analogy that the District Planning Officers are not similar to those State Cadre officers who are enjoying replacement pay-scale of Rs. 3000-4500. From the pleadings of the parties, it further appears that the petitioners are not similarly situated to the members of the State cadre in the same pay-scale.

7. The claim of the petitioners was examined by the Pay Anomaly Committee and also by the Fitment Appellate Committee and no indulgence was given treating them as members of a different cadre than the State cadre.

8. The analogy given by the Pay Anomaly Committee and the Fitment Appellate Committee, as referred to above, in my opinion, appears to be the sound reasoning and, in my view, the petitioners have not been discriminated in regard to the revised pay-scale given to them and in this view of the matter, the order as contained in Annexure-9 needs no interference by this Court.

9. For the reasons aforementioned, I do not find any merit in these applications. In the result, these applications are dismissed. No costs.