

(2011) 04 J&K CK 0013

In the Jammu And Kashmir High Court

Case No : Service Writ Petition (SWP) No. 62 of 1999

Ghulam Hassan Bhat and Others

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 28-04-2011

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2011) 2 JKJ 584

Hon'ble Judges : Mansoor Ahmad Mir, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Mansoor Ahmad Mir, J.—This writ petition owes its origin to SRO 59 dated 06.02.1990. It is contended that Petitioners 1 to 24 are

working as Road Workers and Petitioners 25 to 34 are working as Helpers in the Respondent-Department. It is contended that since they have a

common cause, therefore, have jointly preferred this writ petition, and have prayed therein that by way of a writ of mandamus Respondents be

commanded to grant all the benefits in terms of SRO 59 dated 06.02.1990. Besides that Petitioners have also sought some other reliefs which flow

from the first relief on manifold grounds taken in the writ petition.

2. Respondents have filed the reply and have resisted the averments made in the writ petition. Petitioners have chosen not to file the rejoinder.

3. I have heard learned Counsel for the parties. On the face of the pleadings of the Petitioners, this writ petition merits to be dismissed for the following reasons.

4. The Legislature/Government in his wisdom issued the SRO 59 dated

06.02.1990 (See annexure 'A-36' to the writ petition) and placed categories of posts in the pay scales shown against each cadre. In the said SRO, twenty categories of cadres/posts came to be included, wherein neither Road Workers nor Road Supervisors have found their place, meaning thereby that SRO in question, is applicable to those cadres only, mention of which has been made in the said SRO and not to other categories of posts not included. Thus a question that arises for consideration in this writ petition is as to what should have been the relief sought by the Petitioners. Obviously, they should have thrown challenge for their non inclusion in the SRO in question which they have not done. On this count alone, this writ petition merits to be dismissed.

5. Even otherwise also, it is the domain of the Executive/Government to fix the pay scales and grades. Under Article 226 of the Constitution of India, the High Court has no power to make legislation which the legislature has not thought proper or to direct the Government to fix the Pay Scales/Grades. It is the exclusive domain of the Government and this is not the job of the Court at all. Apart from what has been said hereinabove, the Petitioners herein seek the benefit of SRO aforementioned which was issued by the Respondents in the year 1990, which means after nine long years. From the year 1990, two Pay Commissions have examined the revision of pay scales of various cadres in the State. Being the Expert Body (Pay Commission), they have maintained it as on date. This Court has no power or jurisdiction in reaching the findings different from that of the Government/Pay Commissions.

6. Viewed thus, I find no merit in this writ petition. Accordingly, it is dismissed along with CMPs. Interim direction shall stand vacated. However, no order as to costs.