

(2025) 06 JH CK 0869
In the Jharkhand High Court
Case No : W.P.(S) No. 792 Of 2013

Jawahar Lal Yadav

APPELLANT

Vs

State Of Jharkhand

RESPONDENT

Date of Decision : 11-06-2025

Acts Referred:

Citation : (2025) 06 JH CK 0869

Hon'ble Judges : Deepak Roshan, J

Bench : Single Bench

Advocate : Indrani S. Choudhary, Rahul Saboo, Kunal Chandra Suman

Final Decision : Disposed Of

Judgement

Deepak Roshan, J

1. Heard learned counsel for the parties.

2. The instant writ application has been preferred by the petitioner praying therein for quashing of the Office Order as contained in Memo No. 2630 dated 19.10.12 (Annexure-8), issued by the 2nd Respondent, by which while granting the benefit of third ACP/MACP, the respondent no.2 has wrongly added the pay grade of the Petitioner @ Rs.4600/- in place of Rs.5400/- which has been granted to the other similarly situated persons of other department.

3. The brief facts of the case as per the pleadings are that the Petitioner was appointed as Junior Instructor in Science and Technology Department on 18.06.1975 and joined the post on 26.06.1975. During service period the Petitioner completed the Diploma in Workshop Instruction in 1991 and got the National Trade Certificate in 1982.

In order to circumvent stagnation in promotion, the Finance Department of the State Government took a resolution for the grant of 2 ACPs which was superseded by MACP by which 3 ACPs were to be granted on completion 10/20/30 years of service.

4. Though, the pre-revised scale of Instructors in different departments was same what the Petitioner was getting; but during the 4th pay revision, difference in pay scale was made which was objected to by the concerned employees and the same was rectified. Then again during 5th pay revision difference in pay scale was made against which writ was filed before this Court being WP(C) No. 5246/2003 praying for parity in pay scales. The said writ was disposed of directing the respondents to dispose of the representation within two months.

The representation was rejected by the Secretary Science and Technology Department vide Memo dated 16. 07.2005. Thereafter, the order of Secretary was challenged before this Court in WP(S) No. 6294 of 2005 which was disposed of by order dated 09.03.2022 wherein the order of Secretary was set aside and the matter was remitted to 2nd Respondent for taking fresh decision.

In the meantime, the Petitioner retired from service on 31. 01.10 and his pay fixation as on 01.09.2008 was made on the basis of existing pay scale and after adding Pay Band of Rs.4200/- as well as 2 ACPs.

5. The specific case of the Petitioner is that on 1.09.2009, the resolution of Finance Department came in effect giving the benefit of MACP on completion of 30 years. Since the Petitioner had completed 30 years of service in 18.06.2005; as such he claims for the grant of MACP by adding pay band of Rs.5400/- at par with Instructors with other departments.

6. Learned Counsel for the Petitioner submits that the eligibility criteria for appointment as Instructor in Polytechnic Institutes and Industrial Training Institutes are same and their nature of work is also same; as such they should have equal pay scale. She further submits that the Petitioner completed 30 years of service on 18.06.2005 itself and as such he is entitled for the grant of MACP by adding pay band of RS. 5400/- at par with the similarly situated Instructors of other departments and the Petitioner has been granted 3rd ACP under the MACP scheme in the Pay Band II with grade pay of RS. 4600/- instead of RS. 5400/-.

She further submits that the action of State Government is arbitrary in granting different grade pay under the MACP scheme wherein the Instructors of Labour, Employment and Training Department have been granted MACP in the Pay Band II grade pay of RS. 5400/-. She finally submits that the representation of the employees objecting in difference in pay scale was rejected by Secretary of Science and Technology Department vide memo no. 812 dated 16.07.2005 which was challenged before this Court being W.P.(S) 6294 of 2005 wherein the order dated 16.07.2005 was quashed and set aside and matter was remitted to the respondents for fresh order and again the claim of the Petitioner was rejected by the impugned order.

7. Learned Counsel for the Respondents submits that the Petitioner's claim for the Grade Pay of Rs. 5400/- stems from a flawed comparison with instructors in Industrial Training Institutes and Government Polytechnics. He further submits Petitioner relies on Memo No. 2981 dated 01.09.2009, which outlines the MACP

Scheme adopted by the State of Jharkhand. Clause 20(iii) of Schedule-1 to the said Resolution explicitly provides that where an employee is in the Grade Pay of Rs. 4200/- under the 2nd ACP, the next grade pays under the MACP (i.e., the 3rd MACP) will be Rs. 4600/-.

He further submits that the contention that instructors in other departments received Grade Pay of Rs. 5400/- is not a valid ground as those employees belong to entirely separate cadres governed by different service conditions, promotional avenues, and pay scales. The principle of "equal pay for equal work" cannot be invoked in this context because there is neither similarity in duties nor parity in recruitment and promotion rules.

He finally submits that in view of the detailed facts and settled law, the Petitioner has no enforceable legal right to demand Grade Pay of Rs. 5400/-. This petition is an attempt to seek judicial parity where statutory parity does not exist; as such the writ application is liable to be dismissed.

8. Having heard learned counsels for the rival parties and after going through the documents annexed with the respective affidavits and the averments made therein; it appears that the petitioner has contended that similar issue regarding correction in pay scale of a Junior Instructor/Instructor, Senior Industrial Instructors posted at various polytechnic and mining college in the State, bringing them at par with that of Junior Instructors of Industrial Training Institute and where the representation of the employees objecting in difference in pay scale was rejected by Secretary of Science and Technology Department vide memo no. 812 dated 16.07.2005; the same was challenged before this Court in W.P.(S) 6294 of 2005 wherein the order dated 16. 07.2005 was quashed and set aside and matter was remitted to the respondents for taking a fresh decision. For brevity, relevant portion of the order dated 09.03.2022 is extracted hereinbelow:

"15. As a cumulative effect of the aforesaid findings the impugned order dated 16.07.2005 (Annexure-11) cannot be sustained in the eyes of law which is accordingly set aside.

16. However, the matter is remitted back to the Respondent No. 2 for taking fresh decision in accordance with law and in the light of order passed in W.P. (S) No. 5246 of 2003.

17. The petitioner shall file a fresh representation before Respondent No. 2, who in turn shall fix a date of hearing in the matter. If the Respondent No. 2 seeks to rely upon any material of Fitment Committee recommendation or any material of the appellate authority of fitment committee, a copy of the same should be provided to the representative of the petitioner and the petitioner should be granted an opportunity to respond to such material. Thereafter, the Respondent no.2 shall give further opportunity of hearing to the petitioner and pass a reasoned order considering the points which may be raised by the petitioner before the said Authority. The representative of the petitioner shall appear before the respondent No. 2 on 28.03.2022 along with a representation and the same is

directed to be disposed of by the respondent No. 2 as indicated above, within a period of three months thereafter.”

Learned Counsel for the State could not dispute the aforementioned submission and also could not inform this Court about the development as to what happened pursuant to the aforesaid remand order. Forced with this situation this Court is disposing of this writ application on similar line.

Accordingly, the petitioner shall file a fresh representation before 2nd Respondent, who in turn shall fix a date of hearing in the matter. If the Respondent No. 2 seeks to rely upon any material of Fitment Committee recommendation or any material of the appellate authority of fitment committee, a copy of the same should be provided to the representative of the Petitioner and he should be granted an opportunity to respond to such material. Thereafter, the 2nd Respondent shall give further opportunity of hearing to the petitioner and pass a reasoned order considering the points which may be raised by the petitioner before the said Authority.

The entire exercise shall be completed by the concerned Respondent within a period of 4 months from the date of receipt of such representation.

9. With the aforesaid observation and direction, this writ petition is disposed of in the manner indicated hereinabove. Pending I.A., if any, also stands closed.