

(2018) 12 JH CK 0033

In the Jharkhand High Court

Case No : Writ Petition (S) No. 4120 Of 2008

Jharkhand State Probation (Gazetted) Services Association
And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 14-12-2018

Acts Referred:

Bihar Probation of Offenders Rules, 1959 — Rule 3

Citation : (2018) 12 JH CK 0033

Hon'ble Judges : Pramath Patnaik, J

Bench : Single Bench

Advocate : Amit Kumar Das, Swati Shalini, Pooja Kumari, R.K. Shahi

Final Decision : Dismissed

Judgement

Pramath Patnaik, J

1. In the instant writ application, the petitioner has inter alia prayed for direction upon the respondents to forthwith rectify the grant of second upgradation of scale under the Assured Career Progression Scheme from Rs. 7500 - 12000/- to Rs. 10,000-15,200/- to the Probation Officers, who have been granted the benefit of second upgradation of scale under the ACP and to pay all consequential benefits.

2. The facts, in brief, is that the petitioner is an association of the gazetted employees of the Probation Department, Govt. of Jharkhand and the hierarchy of the posts of the gazetted officers of the Probation Department is (I).Director (Probation) (ii).Chief Probation Officer and (iii).Probation Officer. It has further been averred that as per the report of the Fitment Committee, the State Government decided to give two upgradation of scale as on completion of 12 years and 24 years of continuous service respectively to its employees. Meaning thereby, if a person is appointed on the post of Probation Officer, he shall be entitled to get the scale of Principal Probation Officer on completion of 12 years

of service and thereafter he shall be entitled to get the pay-scale of Director (Probation) on completion of 24 years of service. But, the petitioner instead of getting the scale of Chief Probation Officer and Director are getting lower pay-scale, for which, they repeatedly represented before the respondents-authorities to rectify their pay-scale but it did not evoke any response.

3. Heard Mr. Amit Kumar Das, learned counsel for the petitioner and Mr. R.K. Shahi, A.C to learned A.A.G for the respondents.

4. Learned counsel for the petitioner submitted with vehemence that as per the report of Fitment Committee the promotional post of Probation Officer is Director Probation Service. It has further been submitted that after bifurcation of State, the State of Jharkhand duly adopted the Bihar Probation of Offenders Rules, 1959, in which, as per Rule 3 the Director Probation Service is the post superior to that of the Principal Probation Officer; hence the State in the garb of new Rule cannot deny the legitimate claim of the petitioner.

5. As against this, learned counsel for the respondents submitted that the post of Director, Probation Service existed in the undivided Bihar as non-cadre post on which senior Jail Superintendents were posted and after bifurcation of State post of Director, Probation Services remained with the State of Bihar and the said post was not transferred to the State of Jharkhand. It has further been submitted that the State of Jharkhand vide notification dated 01.08.2012 notified the "Jharkhand State Probation Service Rules, 2012", in which the basic post has been indicated as Probation Officer and promotional post as Principal Probation Officer and the post of Director, Probation Service is not mentioned in the said Rules, hence, no relief can be granted to the petitioner.

6. From the pleadings available on record, it appears that after bifurcation of State of Bihar, the State of Jharkhand came with its new Rule "Jharkhand State Probation Service Rules, 2012", which was notified vide memo dated 01.08.2012, which has never been challenged by the petitioner nor it is the subject matter of the instant writ application. In the said Rule, basic post has been shown as Probation Officer and promotional post has been shown as Principal Probation Officer and post of Director has not been mentioned. Furthermore, in the supplementary counter affidavit dated 07.07.2018, it has been averred that the post of Director, Probation Service existed in the undivided Bihar as non-cadre.

7. For the reasons aforesaid, no relief can be granted to the petitioner. Accordingly, the writ application being devoid of any merit is dismissed.