

(1995) 02 GAU CK 0011
In the Gauhati High Court
Case No : Civil Rule No. 1099 of 1994

L. Shyamkishore Singh and Another	Vs	APPELLANT
State of Manipur and Another		RESPONDENT

Date of Decision : 09-02-1995

Acts Referred:

Constitution of India, 1950 — Article 39

Citation : (1995) 3 GLR 157

Hon'ble Judges : H.K. Sema, J

Bench : Single Bench

Advocate : H.N.K. Singh, for the Appellant; Y. Ima Singh, A.G., for the Respondent

Final Decision : Allowed

Judgement

H.K. Sema, J.—By this writ petition the Petitioners, inter alia, is seeking for a writ of mandamus for a direction to the Respondents to upgrade the pay scale of the Petitioners commensurate with the duties performed by them.

2. I have heard Mr. H.N.K. Singh, Ld. counsel for the Petitioners as well as Mr. Y. Ima Singh, learned Advocate General, Manipur.

3. The Petitioners are Government Advocate-cum-Public Prosecutor and Addl. Government Advocate-cum-Additional P.P. (High Court). In the ROP 1990 the case of the Petitioners were not considered for revising their pay scale. Several representations were filed for upgradation of the pay scale of the Petitioners culminated in Cabinet Memorandum dated 3.11.1992. The existing pay scale of the Petitioners is stood at Rs. 3000 - 4500/-. By the aforesaid Cabinet Memorandum it was proposed to upgrade the scale of pay as under:

Existing Scale Proposed Scale

1. Govt, Advocate-cum-Public Prosecutor (High Court) 3000-4500 4100-5300

2. Addl. Govt Advocate-Cum-Addl. Public Prose-Cutor(High Court) 3000-4500

4100-5300

3. Addl. Govt, Advocate Public Prosecutor(D) 2200-4000 3700-5000

4. Addl. Govt, Advocate-cum-Addl. Public Prosecutor(D) 2200-4000 3700-5000

5. Asstt. Govt, Advocate cum-Asstt. Public Prosecutor(D) 1640-2900 2000-3500

The aims and objects for upgradation of the pay scale of the Petitioners in the Cabinet Memorandum are as under:

Similarly, the Public Prosecutor/Addl. Public Prosecutor (High Court) are conducting all sorts of Govt. Cases before the High Court on behalf of the State and they are also conducting cases filed against the orders passed by the Sessions Judges. These Prosecutors are also appointed from amongst the Public Prosecutes (Districts) and also from the Bar who has completed 7 years service or practice there duties and responsibilities are much heavier than that of the judicial officer Grade-I. As such the upgradation of the scale of Public Prosecutor/ Additional Public Prosecutor (High Court) on the ground aforesaid is more justified to the scale of Rs. 4100 to 5300/-

This is a long standing grievances and claims of the Prosecutors and deserves consideration without waiting for pay commission to attract more qualified and deserving candidates. It will, therefore, be in the interest of the State to approve the upgradation of the post and time scale. (emphasis supplied)

4. Further, in the aforesaid Cabinet Memorandum it was observed as under:

The proposal for upgradation of the post and scale of Public Prosecutor-cum-Govt. Advocate (High Court). Addl. Public Prosecutor-cum-Addl. Govt Advocate (High Court); Public Prosecutor/Addl. Public Prosecutor-cum-Addl. Govt. Advocate (D) is also a question of upgradation of the post and scale to commensurate the degree of responsibilities and requisite qualification. This proposal is beyond the scope of the pay commission and the matter be resolved by the Cabinet decision. (emphasis supplied)

5. The aforesaid proposal was considered by the cabinet and subsequently by a notification dated 13.6.94. The ROP 1990 was revised with regard to the pay scale of Public Prosecutor (District) and Asstt. Public Prosecutor (District) raising the pay scale from 2376-3500/- to 3000-4500/-, whereas the case of the Petitioners and Ors. listed in Sl. Nos. 1 and 2 of the Cabinet memorandum has not been considered. By ROP revised Rule, 1994 the pay scale of the Public Prosecutor (D) has been raised and equated with the pay scale of the Petitioners (Government Advocate-cum-Public Prosecutor (High Court)), but the pay scale of the Petitioners has been remained as it is. There is no dispute that the workload and responsibilities of Govt. Advocate cum-Public Prosecutor (H.C.) is more onerous and heavy than the Public Prosecutor or Asstt. P.P. in the District. By equating the pay scale of Public Prosecutor and Asstt. Public Prosecutor in the District to the pay scale of Govt, Advocate-cum-Public Prosecutor in the High

Court, is not only discriminatory but also too arbitrary.

6. Article 39(d) of the Constitution mandated that a citizen shall be entitled to his pay and allowances commensurate with the duty performed by them. As already stated the duties performed by the Govt. Advocates-cum-Public Prosecutor (High Court) are more onerous and higher responsibilities than the duties performed by the P.P. in the District. Therefore, equating the pay scale of Govt. Advocate in the High Court, without corresponding upgradation in the pay of the Petitioners is highly irrational.

7. After hearing the counsel for the Petitioners and learned Advocate General, I dispose of this writ petition with the direction to Respondents 1 and 2 to take immediate step revising the pay scale of the Petitioners as proposed in the Cabinet Memorandum dated 3.11.92 as in the case of Public Prosecutor (District) by notification dated 13.6.94. It may be relevant to mention herein that by the aforesaid Cabinet Memorandum the proposed upgradation of the pay scale of the Petitioners was 4100-5300/-. In ordinary circumstances when the pay scale of P.P. (D) has been equated to existing pay scale of the Government Advocate (High Court), the pay scale of the Government Advocates in the High Court would have been upgraded keeping in view of the duties performed by them. This has not been done in the instant case. The Respondents are, therefore, directed to upgrade the pay scale of the Petitioners to 4100-5300/- (as proposed by Cabinet Memorandum). This shall be done within a period of 3(three) months from the date of receipt of this order. The upgradation of the Petitioners' pay scale will be effective from 13.6.94 the date on which the pay scale of the Public Prosecutor (D) has been raised. Thereafter, the arrear pay of the Petitioners shall be paid within a period of 2 months.

8. With the aforesaid direction, this petition is allowed.