

(2008) 05 GAU CK 0041
In the Gauhati High Court

Motsuo Lotha and Another

APPELLANT

Vs

State of Nagaland and Others

RESPONDENT

Date of Decision : 23-05-2008

Acts Referred:

Citation : (2008) 3 GLT 222

Hon'ble Judges : P.K. Musahary, J

Bench : Single Bench

Judgement

P.K. Musahary, J.—Heard Mr. E.Y. Renthungo, learned Counsel for the petitioners. Also heard Mr. L.S. Jamir, learned Senior Government Advocate, appearing on behalf of the respondents.

2. The petitioner No. 1 was initially appointed as Carpenter on 3.1.1973 in the scale of pay of Rs. 125-185 p.m. and he was subsequently promoted to the post of Senior Rubber Stamp Maker in the establishment of Directorate of Printing and Stationary, Nagaland. The petitioner No. 2 was also appointed to the post of Carpenter in the same establishment on 14.8.1987 in the scale of pay of Rs. 450-805 p.m. It has been stated by the petitioners that while working as Carpenter, at the subsequent stage they were paid salary in the scale of pay of Rs. 1150-2120 p.m. before coming into force of the Nagaland Services (Revision of Pay) Rules, 1999 (for short ROP Rules).

3. In the aforesaid ROP Rules of 1999, the Carpenters in all the Government Departments who have attained the basic pay of Rs. 1150-2120 p.m. have been revised to Rs. 3200-4900 p.m. The aforesaid ROP Rules came into force on the forenoon of 1st June, 1998 for the purpose of notional pay fixation in the new pay scale and for the purpose of fixation of monthly pension in respect of employees who have retired from service after 31.5.1998 and prior to 1.4.2000 and that actual payments on the basis of the new pay scale would be effective from 1.4.2000.

4. The grievance of the petitioner is that they have been denied of the revised

pay scale under the existing ROP Rules and their scale of pay have been fixed at Rs. 3050/- only which is arbitrary and illegal. The petitioners made a joint representation before the Director of Printing and Stationary, Nagaland, Kohima on 24.7.2001 and they received a communication from the aforesaid Director vide letter No. NGP/ACT/ROP/26/4-5/284 dated 4.5.2004 informing them that Carpenters' scale has been wrongly entered in the ROP of 1999 as Rs. 3200-85-4900 instead of Rs. 3050-75-3950-80-4590 p.m. due to printing mistake. It was further stated in the aforesaid letter that as per ROP of 1993 and 1994, all categories of posts which falls under Rs. 450-805 p.m. in the existing scale will be fixed at Rs. 1000-1880 p.m. in the revised scale (ROP of 1993) and Rs. 1000-2880 p.m. in the existing scale will be fixed at Rs. 3050-75-3950-80-4590 p.m. in the revised scale of ROP 1999. Accordingly, the petitioners' representation was rejected by the aforesaid Director.

5. At the time of hearing, the learned Counsel for the petitioners could not disclose to this Court about the pay scale drawn by the petitioners before coming into force of ROP 1999 and therefore it could not be considered as to whether the petitioners would be entitled to revised pay scale of Rs. 3200-85-4900 p.m. under the ROP of 1999. On the other hand the petitioners have pleaded that the respondent Director, who issued the impugned letter dated 4.5.2004 (Annexure-H), has no authority to interpret the ROP Rules and fix the pay scale of the petitioners contrary to the existing ROP Rules.

6. In the affidavit-in-opposition filed by the respondent No. 1 and respondent No. 2, it has been stated that the petitioners' pay scale has been fixed as per provisions under Rule 7 of the ROP Rules, 1999. Para 6 of the aforesaid affidavit is quoted hereunder:

6. That the statements made in paragraph 7 of the writ petition are denied. The deponent respectfully states that unlike the other Departments who are having two grades of Carpenter post i.e., Carpenter Grade-I and Carpenter Grade-11 having the revised scales of pay of Rs. 3200-4900 and Rs. 900-1760 respectively, the Department of Printing and Stationary does not have gradation in the post of Carpenter. As such, fixation of pay of both the petitioners was done as per Annexure-1 of the Revision of Pay Rules, 1999 on the basis of identical corresponding revised scale of Carpenters. The detail fixation of pay in the revised scale in respect of the petitioners are detailed as under:

(a) Shri Motsuo Lotha (Petitioner No. 1 presently promoted to the post of Sr. Rubber Stamp Maker):

(i) Corresponding revised Scales (Time bound)

- Rs. 1150-2120/- p.m.

(ii) Revised Scales as per ROP Rules, 1999 (Annexure-I to the ROP Rules, 1999)

- Rs. 3200-4900/- p.m.

(iii) Pay fixed as on 01.06.1998 in terms of Rule 7 of the ROP Rules, 1999 - Rs. 4900/- p.m.

(b) Shri Lima. Carpenter (Petitioner No. 2): (i) Corresponding revised Scales

- Rs. 1000-1880/- p.m.

(ii) Revised Scales as per ROP Rules, 1999 (Annexure-I to the ROP Rules, 1999)

- Rs. 3050-4590/- p.m.

(iii) Pay fixed as on 1.06.1998 in terms of Rule 7 of the ROP Rules, 1999 - Rs. 3800/- p.m.

Photostat copy of the aforementioned Annexure-I of the ROP Rules, 1999 is annexed herewith and marked as Annexure-A hereof.

7. From the materials placed before this Court, it is found that there are some anomalies/disparities in the fixation of pay of the petitioners attached to the post of Carpenter which require a thorough examination by an authority having expertise in the matter. This Court, therefore, deems it proper to refer the matter to the Government for proper and thorough examination of the matter to resolve the aforesaid pay anomalies.

8. It is, therefore, directed that the Principal Secretary and Finance Commissioner to the Government of Nagaland shall examine himself or cause the matter examined by Pay Anomaly-Committee, if any, constituted by the Government or by a body of officers having expertise in the matter, within a period of 3 (three) months from the date of receipt of this order and remove the said anomalies as raised by the petitioners.

9. The petitioners shall furnish a copy of the writ petition, including its Annexures alongwith a certified copy of this order to the Principal Secretary and Finance Commissioner, Government of Nagaland within 10 days for taking necessary steps by the aforesaid Principal Secretary and Finance Commissioner.

10. This writ petition stands disposed of with the aforesaid observations and directions.