
(2014) 10 JH CK 0054
In the Jharkhand High Court
Case No : W.P. (S) No. 6426 of 2013

Mritunjay Kumar

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 20-10-2014

Acts Referred:

Citation : (2014) 12 AJR 761

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Rohit, Advocates for the Appellant; Vaibhav Kumar and Richa Sanchita, Advocates for the Respondent

Judgement

Aparesh Kumar Singh, J.—Heard counsel for the parties. Petitioners are Veterinary doctors of 1994 batch of Animal Husbandry Department who have raised a grievance that they should be granted parity in pay scale with 1995 batch of Veterinary doctors of their department in accordance with the Fundamental Rule-22.

2. According to them, Finance Department, Government of Jharkhand had notified the ACP Scheme vide resolution 5207 dated 14.08.2002 and MACP Scheme vide resolution No. 660 dated 28.02.2009. Implementation of the MACP scheme has resulted in anomaly as the petitioners belonging to 1994 batch, have been getting lower scale of pay. Petitioners in their writ petition have also referred to the provisions of Clause-6.1 of the MACP Scheme dated 01.09.2008 where-under, a provision has been made for the employees for getting their pay fixed under the 6th Pay Revision implemented with effect from 01.01.2006. This condition was specifically in respect of persons who could have been the beneficiaries of ACP Scheme between 01.01.2006 to 31.08.2008 i.e. till the date of implementation of the MACP Scheme. As per the Scheme, which is not in dispute, petitioners herein belonging to 1994 batch, exercised the second option. The ACP scheme of 2002 is annexed as Annexure-B to the counter affidavit of the respondent-Accountant General and the relevant part of the MACP dated

01.09.2009 along with its Appendix-1 which contains the provisions of Clause-6.1 has been also annexed as Annexure-A to the same counter affidavit. The first option under Clause-6.1 provides that the incumbents exercising the same, would get the benefits of pay fixation with effect from 01.01.2006 on the basis of their pre-revised pay. Those exercising the second option would get their pay fixed in their pre-revised scale along with the ACP benefits from the date they are entitled and conferred the ACP benefit. Upon those exercising the second option, arrears of salary pursuant to such pay fixation upon grant of ACP, would be paid from the date of such fixation. Petitioners, as indicated herein, has exercised the second option and many of those belonging to the 1995 batch have reportedly exercised the first option.

3. Petitioners in the writ petition have drawn a comparative chart at table-2 giving actual scenario of the petitioners vis-a-vis the private respondents upon such pay revision. Perusal thereof shows that if one of the petitioners got the benefit of ACP from 23.2.2006, his pay was fixed at Rs. 25,200/- in the revised scale; those who exercised the first option i.e. the officers of 1995 batch, they got the scale of Rs. 21,210/- with effect from 1.1.2006 i.e. the date of implementation of 6th Pay Revision; the first optees got the benefit of ACP with effect from 01.03.2007 as compared to the petitioners who got it from 23.02.2006. As a result of grant of such ACP to the first optees, they were placed in the scale of Rs. 23,530/- on 01.03.2007, while petitioners were in the scale of Rs. 25,200/- on that very date. However, in the subsequent pay fixation, petitioners who had already availed of the first ACP were remained in the same scale of Rs. 25,200/-, but those who exercised the first option, got their pay fixed in the scale of Rs. 24,730/-. The chart discloses that after a particular date, there were difference of Rs. 210/- in the pay with those who had exercised the first option with that of those who exercised the second option. Petitioners are aggrieved because 1994 batch officers ultimately were getting a higher pay.

4. In this factual background, and in relation to the provisions of MACP Scheme, which is not under challenge by the petitioners, it is well settled proposition that such principles of pay fixation and grant of financial up-gradation are framed on the advice of the fiscal experts and are related to the financial matters. Provisions of such scheme are neither under challenge in the present writ application. Apparently, the scheme itself provides for two options and the petitioners vis-a-vis 1995 batch officers exercised their option on their own volition without any compulsion. It also appears that for certain period, petitioners got higher pay than those of 1995 batch officers, but because of grant of ACP in March 2007, officers of 1995 batch exercising the second option, consequently got slightly higher pay fixation thereupon.

5. Even otherwise, ACP Scheme itself stipulates that the financial upgradation granted shall in no way, be intended to mean that anyone in the higher scale of pay because of financial upgradation has become senior in the cadre.

6. Having regard to the aforesaid facts and circumstances, and the fact that the

scheme operates in the uniform manner upon all such categories of officers who have exercised one or the other option, petitioners cannot allege that they are entitled to pay parity with the officers of 1995 batch who had exercised the first option. During the course of submission, counsel for the petitioners has harped only on the issue of pay parity claimed with those officers of 1995 batch.

7. Counsel for the respondent-Accountant General, by referring to para-10 of their counter affidavit, submits that because of resolution of 02.06.2012, doctors of 1995 batch would get their pay fixed at the minimum scale of Rs. 10,000/- i.e. between 10,000-15,200/-. This resolution would take care of the petitioners' grievances.

8. Counsel for the petitioners submits that the petitioners may be allowed to represent before the Department if they are entitled to any protection if the aforesaid scheme provides for raising such grievances relating to the difference in pay scale of officers of different batches. Petitioners are at liberty to do so, but in the present writ application, this Court has not found any reason to issue direction upon the respondents, as prayed for. The writ petition is accordingly dismissed.