
(2019) 12 JH CK 0166
In the Jharkhand High Court
Case No : Writ Petition (S).No. 3282 Of 2018

Rakesh Kumar Kanaujia And Ors

APPELLANT

Vs

State Of Jharkhand And Ors

RESPONDENT

Date of Decision : 11-12-2019

Acts Referred:

Citation : (2019) 12 JH CK 0166

Hon'ble Judges : Dr. S.N. Pathak, J

Bench : Single Bench

Advocate : Neha Bhardwaj, Shadab Bin Haque

Final Decision : Disposed Of

Judgement

1. Heard the parties.

2. Petitioners have approached this Court with a prayer for direction upon the respondents, particularly, respondent Nos. 1 and 2 to upgrade the pay-

scale from Rs.1600-2780 to Rs.2000-3000 w.e.f. 24.01.1994 and consequently, further grant pay-scale of Rs.5000-8000 to the petitioners w.e.f.

01.01.1996, as they are fulfilling the requisite qualifications of B.Sc. Agriculture and holding the post of Block Agriculture Officers. Further prayer has

been made to pay the difference of salary to the petitioners on account of aforesaid upgradation w.e.f. 24.01.1994 and 01.01.1996 respectively, with

all consequential benefits.

3. Bereft of unnecessary details, the petitioners were appointed in between 1986-88, to the post of Block Agriculture Officers by the State of Bihar

and their names reflected at Sl. Nos. 787, 948, 1010, 1055, 1056 and 1061 respectively, in the seniority list. It appears that petitioners were

subsequently promoted in the year 1992, in pursuance of an order dated

24.08.1982, passed in C.W.J.C. No. 3157 of 1985 by the Honâ??ble Patna

High Court. Thereafter, the termination order was challenged before the Division Bench in C.W.J.C. No. 9376 of 1992, 10197 of 1992 and 11212 of

1992. The said writ petitions were dismissed by the Division Bench of Honâ??ble Patna High Court with an observation to allow only such

petitioners of those cases to continue against the lower posts on which they were initially appointed by virtue of the policy decision of 1979 and

consider their cases for absorption against the higher posts. In light of such decision, the cases of such persons were considered and they were

directed to be absorbed on the post against which they have been removed. Thereafter, Special Leave Petitioner being S.L.P. (C). No. 17930 of 1993

was preferred and during the pendency of the said S.L.P., the cases of the petitioners and others were considered and their services taken back and a

supplementary counter-affidavit was filed to that effect before the Honâ??ble Apex Court.

4. In the light of the decision taken by the State Govt., the services of the petitioners and others were reinstated in view of the notification dated

21.02.1995. As the petitioners were having the requisite qualification of B.Sc. Agriculture, they were considered and granted the pay-scale of Block

Agriculture Officer from the date of their joining i.e. 1986-87 in the pay-scale of Rs.1600-2780. The pay-scale of Block Agriculture Officers were

upgraded from Rs.1600-2780 to Rs.2000-3800 and the persons, who were refused to grant the upgraded pay-scale, preferred a writ application before

the Honâ??ble Patna High Court being C.W.J.C. No. 9217 of 1988, which was disposed of on 26.05.1992, allowing the writ petition with a direction

to the State Govt. to consider the matter relating to upgradation of 587 posts of Block Agriculture Officers, in accordance with law. Subsequently, the

pay-scale was upgraded from Rs.1600-2780 to Rs.2000-3800 w.e.f. 24.01.1994 by notification dated 06.03.1995 but the petitioners and some other

persons were not granted the upgraded pay-scale in view of the said notification. Subsequently, a contempt petition was also filed. After giving several

hearing to the respondent-State as well as petitioners, finally the Court passed an order directing the respondent-State to grant upgraded revised scale

to all such Agriculture Officers of category 2 to 9, who have already passed B.Sc. Agriculture or other equivalent examinations. In view of the order

passed by the Honâ??ble Patna High Court, the cases of several similarly situated persons were considered and their pay-scale were upgraded but

the petitioners were denied the said benefits and as such, they preferred representations before the Secretary, Agriculture, Animal Husband and Co-

operative Department, Govt. of Jharkhand, Ranchi to consider their cases for granting the similar benefits which has been granted to the other

similarly situated persons but no heed was paid to their said requests.

Hence, the petitioners were constrained to knock the door of this Honâ??ble Court by filing the instant writ application.

5. Ms. Neha Bhardwaj, learned counsel appearing for the petitioner, argues that the petitioners are entitled for the same benefits which has been

considered and granted to the similarly situated persons in view of several orders and directions of the Honâ??ble Supreme Court as well as that of

the Honâ??ble Patna High Court and a specific order has been passed in the Contempt Petition. Learned counsel argues that the State of Jharkhand

has adopted pick and choose method. A different yardstick has been adopted for different persons and petitioners have been denied the same benefit

with malafide intention, which is not permissible in the eyes of law and as such, a direction be given to the respondents to consider the case of the

petitioner for upgraded pay-scale. However, it was argued that from the averments made in para-7 of the counter-affidavit, it appears that cases of

the petitioners have been considered and recommended for grant of upgraded pay-scale but till date no decision has been taken and in case of

petitioner No. 6, the same has not yet been recommended, which shows the malice approach of the respondent-authorities.

6. Per contra, counter-affidavit has been filed. Mr. Shadab Bin Haque, learned counsel appearing for the respondent-State draws the attention of the

Court towards para-7 of the counter-affidavit and very humbly submits that the answering respondent has passed office order vide letter No. 44 dated

19.08.2019, wherein it has accepted the contention of the writ petitioners and has approved the pay-scale of Rs.2000-3000 w.e.f. 24.01.1994.

Furthermore, it has also accepted the pay-scale admissible from time to time based on aforesaid revision in the pay-scale, whereas, benefits of revision

of pay-scale shall be payable to the petitioners upon necessary verification from Department of Finance, Govt. of Jharkhand, Ranchi.

7. Be that as it may, having heard the parties at length and on perusal of the documents brought on record, particularly, the specific averment made in para-7 of the counter-affidavit, this Court is of the considered view that already respondents have considered the cases of the present petitioners and the same has been given effect to. However, as far as benefits of revision in pay-scale is concerned, the same is based on necessary verification from the Finance Department. As such, I hereby direct the respondents to take a uniform decision also in case of petitioner No. 6, as his case is similarly situated and he also fulfills the requisite qualifications. The respondents are further directed to take decision and extend the consequential benefits, within a period of eight weeks from the date of receipt/ production of a copy of this order.

8. Needless to say, as already a decision has been taken in cases of other petitioners, the consequential benefits accrued to them in view of pay-revision shall also be granted to them, preferably within a period of three weeks from the date of receipt/ production of a copy of this order.

9. With the aforesaid observations and directions the writ petition stands disposed of.