
(1996) 09 PAT CK 0016
In the Patna High Court
Case No : C.W.J.C. No. 6282 of 1996

Rameshwar Pd. Singh and Others etc., etc.	APPELLANT
Vs	
State of Bihar and Others	RESPONDENT

Date of Decision : 19-09-1996

Acts Referred:

Bihar Agriculture Services Act, 1982 — Section 2
Bihar Panchayat Raj Act, 1993 — Section 58(1)

Citation : (1996) 2 PLJR 859

Hon'ble Judges : N. Pandey, J

Bench : Single Bench

Advocate : Rajendra Prasad Singh and Anil Kumar Upadhyaya, for the Appellant;
D.N. Singh, for the Respondent

Judgement

N. Pandey, J.—This order will govern all the writ petitions which have been heard together as the facts and points involved in these cases are common.

2. The prayer of the Petitioners is to quash the notifications dated 24.6.1996, issued under the signature of Additional Secretary, Department of Agriculture, Government of Bihar, as contained in Annexure-1, and the other dated 27.6.1996, issued by the same authority, as contained in Annexure-2, whereby, the decision of the State Government dated 21.6.96 as notified, recalling the services of Petitioners from the posts of Block Development Officers, Rural Development Department because against such posts only those officials of Agriculture Department or Rural Development Department were required to be posted, who were placed in the scale of the Deputy Collector i.e. Rs. 2200-4000 whereas the Petitioners were admittedly in the scale of Rs. 2000-3800.

A prayer has also been made to direct the Respondents to pay the scale of Rs. 2200-4000, which is a revised scale of Rs. 1000-1820, already made available to the officers of different recognised State services including 1423 Agriculture Inspectors, who were upgraded by a notification of the State Government dated 18.12.1989 with effect from 18.9.1987, although initially getting the same scale

of Rs. 1000-1820 as also to grant the time bound scale of Rs. 3000-4500/-. In alternative, the prayer is to declare since the Petitioners have already completed the tenure, which entitles them for time bound promotion in the scale of Rs. 2400-4150, therefore, the decision of the State Government to recall their services from the post of Block Development Officers was highly illegal and improper.

3. Before adjudicating the reliefs sought for by the Petitioners, it would be appropriate to have a brief survey of some of the facts. Prior to 1981 the posts of Agriculture Inspector and its equivalent posts, such as, Surveillance Inspector, Seed Inspector, Junior Research Assistant etc. were Class III Non-gazetted posts in the pay scale of Rs. 355-555, the higher post being Block Agriculture Officer/ Assistant Agriculture Officer in the scale of Rs 400-660. Accordingly, promotions were used to be given from Class III Non-gazetted to Class III Gazetted posts. On the recommendation of the 4th Pay Revision Committee in the year, 1981 the State Government took a decision to place Agriculture Inspectors in the same scale of Rs. 850-1630. Admittedly, the posts of Block Agriculture Officers continued to be Gazetted while the posts of Agriculture Inspectors etc. remained non-gazetted. In the year, 1987, the State Government upgraded 1423 posts of Agriculture Inspectors from the scale of Rs. 850-1360 to Rs. 1000-1820, to give them parity of the scale with Sr. Agriculture Extension Officers, the scale which was also available to Class II posts. Later the scale of those 1423 Agriculture Inspectors was also revised along with other Government servants pursuant to the recommendation of the 5th pay Revision Committee vide resolution of the Finance Department dated 18.12.1989 to Rs. 2200-4000 with effect from 18.9.1987.

4. The State Government, however, on 22.1.1991 reduced the pay scale of those 1423 Agriculture Inspectors to Rs. 2000-3800 with effect from 18.9.1987. Immediately thereafter, by Anr. notification dated 8.2.1991 the State Government in exercise of its power u/s 2(b) of the Bihar Agriculture Service Act, 1982 deleted 1423 posts from its schedule. The said order was challenged before this Court in C.W.J.C. No. 767 of 1991.

5. Ultimately after hearing the parties it was held that such Agriculture Officers were not entitled to the scale of Rs. 2200-4000, which was a prescribed sub-scale for the members of 14 recognised State services, including Bihar Agriculture Service Class II. It was further held since the Petitioners of that case were not members of the Bihar Agriculture Service Class II, therefore, not entitled for that scale. It would be appropriate to notice the relevant finding from the aforesaid judgment hereunder:

...I have also stated that there is no dispute as to the upgradation of the posts of Agriculture Inspectors from their erstwhile scale of Rs. 850-1360 to the scale of Rs. 1000-1820. It has also been mentioned that the only dispute relates to the grant of the replacement scale pursuant to the 5th Pay Revision. As noticed above, parties were virtually unanimous on the point that the scale of Rs.

2200-4000 can be admissible to the Agriculture Inspectors only if they are held to be members of Class II service. In view of my finding above that the posts in question were never added in the schedule of the Service Act, as required by the said Act, no question of reduction in rank or taking away of any accrued right arises. The Petitioners had been placed in the then scale of Rs. 1000-1820 by virtue of the upgradation of the post in question by Annexure-2, notification dated 28th January, 1988. Since the scale of Rs. 2000-3800/- is the corresponding replacement scale after the 5th Pay Revision which is not disputed by the State, the Petitioners can not complain of any reduction in rank.

6. Petitioners of these cases also along with Ors. had also filed C.W.J.C No. 9217 of 1988 for upgradation of the remaining 587 posts of Agriculture Inspectors in the scale of Rs. 1000-1820 as also the revised scale, which was made available to those 1423 Agriculture Inspectors. Petitioners made numerous grievances about the arbitrary decision of the authorities. The said writ application was also heard and disposed of along with the above mentioned case. Having found that serious injustice was done to those 587 Block Agriculture Officers by at least not giving them the same benefit of upgradation to that of their counterparts, in order to remove anomaly, it was directed that the State Government is bound to give the revised corresponding scale of Rs. 2000-3800 as was made available to those 1423 officials. In view of such a finding, writ petition bearing C.W.J.C. No. 767 of 1991 was dismissed but the writ application of the Petitioners bearing C.W.J.C. No. 9217 of 1988 was allowed. In that view of the matter, undisputedly the Petitioners are getting scale of Rs. 2000-3800.

7. Thereafter, the Petitioners of C.W.J.C. No. 767 of 1991 challenged the judgment of this Court before the Supreme Court in Civil Appeal No. 4620 of 1992. The notification of the State Government dated 8.2.1991 was set aside on the ground that no notice and required opportunities were given to the Petitioners while reducing their scale and status. The State Government was also directed to give notices to the aggrieved persons and then pass an appropriate speaking order. The State Government in compliance of the order of Supreme Court after having considered the show cause of those 1423 Agriculture Officers by a notification dated 11.11.1993 contained in Annexure-B, communicated its decision that 1423 posts of Bihar Agriculture Subordinate Service Category I (Agriculture Inspectors) can not be amalgamated in Bihar Agriculture service Class II. Therefore, those officials were only entitled to scale of Rs. 2000-3800, as previously granted by the Finance Department vide Memo No. 314 dated 22.1.1991. The said notification, however, was challenged before this Court in C.W.J.C. No. 12050 of 1993.

8. A Bench of this Court while admitting the writ petition by order dated 16.12.1995 directed that Petitioners of that case would continue to get their scale, which they were getting before issuance of Annexure-1 of the said case. It is stated that admittedly in view of the said order, those officials are getting scale of Rs. 2200-4000 and some of them have also been allowed to continue as Block

Development Officers. Therefore it would be highly unjust and improper if the Petitioners are also not allowed to continue against such posts. It has been further contended that this Court also while disposing of the previous case had decided that in order to meet the injustice caused to the Petitioners, as also the parity in the scale, the State will have no option but to pay the same scale, which was made available to those 1423 Agriculture Inspectors.

10. There cannot be any dispute that in view of the order in the previous case, Petitioners are entitled to the same scale, which has been made available to those 1423 Agriculture Inspectors. The State Government has also in compliance of the said order granted scale of Rs. 2000-3800 i.e. the scale which was fixed with regard to 1423 officials. But simply on the ground that on the basis of an interim order in C.W.J.C. No. 12050 of 1993, those 1423 officials are getting scale of Rs. 2200-4000, it would not be proper to direct the Government to fix the same scale until and unless the notification of the Government, dated 11.11.1993 is set aside, holding that those 1423 are entitled for the scale of Rs. 2200-4000.

11. Mr. Singh further contended that in view of a decision of this Court in C.W.J.C. No. 2537 of 1990, the officials of Bihar Animal Husbandry Department, who were also initially placed in the scale of Rs. 1000-1820 but are now being paid the replacement scale of Rs. 3000-4500 in place of the pay scale of Rs. 2400-4150. He has also drawn my attention towards a copy of the Bihar Gazette, published by the Finance Department on 19th December, 1989 giving details of revised pay scale of different Government employees. At item No. 1 of schedule I, the revised sub-scale of Rs. 1000-1820 has been mentioned as Rs. 2200-4000. He contended that decision of the State authorities not to grant the same scale as has been made available to the officials of the Animal Husbandry Department is highly arbitrary.

12. There is no dispute that this Court allowed the replacement scale of Rs. 3000-4500 in place of Rs. 2400-4150 to the officials of Animal Husbandry Department in the said case. But as would appear from the judgment itself that by a Gazette notification dated 16th August, 1986 those officials were included in Class II service of Animal Husbandry Department of State of Bihar. Undisputedly the Petitioners are not the members of Bihar Agriculture Service Class II. Therefore, it would not be proper to urge since the officials of Bihar Animal Husbandry Service Class II are getting the replacement scale of Rs. 3000-4500, the Petitioners are also entitled for the same.

13. Now I would like to consider the alternative claim of the Petitioners for grant of time bound promotion in the scale of Rs. 2400-4150. There cannot be any denial if the Petitioners have already completed ten years of their service, they will be certainly entitled for time bound promotion. Unfortunately, no justiciable reason has been assigned by the Respondents under what circumstances, the Petitioners who have become entitled for such scale are denied. Accordingly, I direct Respondent Nos. 3 and 4 to consider the claim of the Petitioners for time

bound promotion without any further delay.

14. So far their claim for the scale of Rs. 2400-4150/- and its replacement scale, as I have already noticed that a writ petition bearing C.W.J.C. No. 12050 of 1993 filed on behalf of those 1423 Agriculture Inspectors is still pending for consideration before this Court, it would not be proper for me to express any opinion on this issue. But I also endorse the same view as was taken by this Court while disposing of C.W.J.C. No. 9217 of 1988, that those 587 Agriculture Inspectors including the Petitioners would be entitled for the same scale which may be available to those 1423 Agriculture Inspectors.

15. Now I shall proceed to examine the validity of the impugned notifications, whereby, the Government has decided to recall services of the Petitioners from the posts of Block Development Officers since they are not getting the scale of Rs. 2200-4000/-, as was available to the Executive Magistrates or to the officials of Bihar Agriculture Service Class II.

16. A bare reference to the facts, noticed above, this is not in dispute that Petitioners are still getting the scale of Rs. 2000-3800. This also cannot be ignored that the State Government having regard to different eventualities that a Block Development Officer, besides the normal development work, is also required to function as Executive Officer of the Panchayat Samiti and further that in view of the provisions of Section 58(1) of the Bihar Panchayat Raj Act, 1993, nobody can be appointed below the rank of Deputy Collector, against such post, took a decision to recall services of those Agriculture Officers/Inspectors, who were not in the scale of Rs. 2200-4000. Similar may be the problem before the Government while appointing the Block Development Officers as Special Officers of the Municipalities or Notified Area Committees.

17. Therefore, having regard to the facts, noticed above, it would not be open to the Petitioners to urge that impugned decision of the State Government was malafide and arbitrary. That apart, since admittedly till this day Petitioners are not in the scale of Rs. 2200-4000, no grievance can be raised if their services have been recalled.

18. For the reasons, stated above, all the writ petitions are partly allowed with respect to the claim of Petitioners for time bound scale and also for the same scale, which may be available to those 1423 officials, but dismissed with regard to their prayer for quashing of the impugned notifications.