
(1997) 09 PAT CK 0034
In the Patna High Court
Case No : C.W.J.C. No. 2866 of 1993 (R)

Sati Raman Sinha and Others

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 05-09-1997

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (1997) 2 PLJR 924

Hon'ble Judges : R.N. Sahay, J

Bench : Single Bench

Advocate : P.K. Sinha, D.K. Sinha and S. Bose, for the Appellant; V. Shivnath, for the Respondent

Final Decision : Allowed

Judgement

R.N. Sahay, J.—By this application under Article 226 of the Constitution of India, the Petitioners, who are Field Supervisors in the Soil Conservation Department of the State Government seek writ of certiorari to quash the report of 5th Pay Revision Committee with regard to revision of pay scale of Field Supervisors. The Petitioners further pray for a mandamus commanding the Respondents to fix the Petitioners' pay in the scale of Rs. 1500/- to 2750/- as has been made applicable to the similarly situated persons in other government departments and in Sone Command Area Development Agency.

2. On the constitution of the 4th Pay Revision Committee the Petitioners Association submitted a memorandum contained in letter No. 71, dated 22.6.1978 praying therein for higher pay and also for promotion. The Petitioners lament the Pay Revision Committee did not consider their legitimate claim and thereby the pay scale of supervisor was fixed in the lowest scale of pay even below surveyor. The Pay Revision Committee recommended the revised scale of Rs. 535/- to 765/- for Field Supervisors. It is petient to note that according to 3rd Pay Revision Committee the pay scale of Field Supervisor was higher than the pay scale of surveyors. The anomaly was created, for the first time, in the

4th Pay Revision Committee's report.

3. The Petitioners being aggrieved by the discrimination and arbitrariness in the matter of fixation of their pay submitted a representation before the Secretary, Pay Anomaly Removal Committee through their Chairman. The representation was forwarded vide letter No. 1302, dated 9.6.1982 of the Director, Soil Conservation, Bihar, Patna (Annexure 7) who also pointed out the anomaly done in the case of the Petitioners and recommended in scale of Rs. 730/- to 1080/-. The Anomaly Removal Committee was requested to rectify the anomaly.

4. The Anomaly Removal Committee turned down the claim of the Petitioners and also recommendation of the Director, Soil Conservation. It would be convenient to extract the decision of the Anomaly Committee:

The incumbent had stated that the minimum qualification prescribed for this post is matriculation with Science and Diploma in surveying from the I.T.I. which is two years course but some persons with Intermediate in Science or Diploma in Agriculture have been appointed against this post and on this ground the higher scale of Rs. 730/- to 1080/- has been demanded. Further it has been claimed that Amin and surveyors and subordinate posts and hence it is anomalous to place all these posts in the same revised scale. Regarding this the Director, Soil Conservation Department has clarified that the prescribed recruitment qualification for the post of Field Supervisors is matriculation with Science and that this post is not a promotional post for Amins and Surveyors as claimed. The Field Supervisors form a separate cadre and the general provisions of Selection Grade apply to them. In view of this we are of the opinion that no case of anomaly has been made out.

5. The Anomaly Committee turned down the claim of the Petitioners without affording opportunity to the Association to substantiate their claim. The aggrieved Petitioners along with Ors. filed a writ petition bearing C.W.J.C. No. 901/86. The prayer was similar to the present application. A Division Bench of this Court without deciding the claim of the Petitioners opined that it will be appropriate in the circumstances of the case that the Petitioners should file proper representation before the Special "Secretary, Department of Finance-cum-Secretary, Pay Anomaly Removal Committee, Bihar who will consider the same and after giving his own report will forward the same to the 5th Pay Revision Committee which had already been constituted. The Petitioners were given liberty to raise the same points directly before the 5th Pay Revision Committee, also.

6. The Petitioners in accordance with the direction given in the earlier writ application filed a representation (Annexure 9) along with a copy of writ application. The Department of Soil Conservation, Bihar, Patna, submitted the detailed comments dated 12.8.87 addressed to the Member Secretary, 5th Pay Revision Committee, Department of Finance, Bihar, Patna. The Director, Soil Conservation placed relevant materials to justify the grievance of the Petitioners.

He asserted that Field Supervisor should be treated below the rank of Assistant Conservation Officer but higher in rank to Surveyor/Amin and Chairman. It was further pointed out that Chairman is entitled to be promoted to the post of Amin and Amin is to be promoted to Surveyor and Surveyors were promoted to the post of Field Supervisor. The then Director, Soil Conservation also informed the 5th Pay Revision Committee that the post of Field Supervisors is more important and is to be filled up by more senior personnel than Surveyors and Amins. The Anomaly Committee also suggested the 5th Pay Revision Committee to raise the pay scale of Rs. 730/- to 1080/- (Revised scale of Rs. 1400/- to 2300/-) on ground that the scale of senior surveyors is Rs. 680/- to Rs. 695/- (Revised scale of Rs. 1320/- to 2040/-). The Fifth Pay Revision Committee failed to consider the suggestion made by the Director, Soil Conservation as well as Anomaly Removal Committee and thereby the claim of the Petitioners has been rejected. The 5th Pay Revision Committee recommended the pay scale of Rs. 975/- to 1540/- in respect of Field Supervisor whereas the Surveyors have been given pay scale of Rs. 1320/- to Rs. 2040/-

7. It would appear that the Petitioners have been subjected to hostile discrimination and have been given the lowest of the replacement scale whereas the Surveyors with less responsibility and less job requirement with less requisite qualification and under the supervisory control of the Petitioners have been given higher scale. The Petitioners have been equated with Amins, the lowest rank in the cadre. Giving a comparison to other departments granting of the present existing scale to the Petitioners cannot be justified on any account. The Petitioners are entitled to the scale according to their qualification, job requirement and responsibility and stagnation as has been given in the corresponding similar departments of the government instrumentally, such as Sone Command Area Development Agency and the Supervisor, Co-operative Department and/or the suggestion made by the Petitioner department as well as Anomaly Removal Committee to the 5th Pay Revision commission in this regard.

8. Learned Counsel for the Petitioner has submitted that upto 1972 the minimum requisite qualification for appointment on the post of Field Supervisor was matriculation second division with Science or Diploma in Agriculture. In the year 1973, some of the Field Supervisors were appointed and for that purpose an advertisement was made and in that advertisement the minimum qualification was matriculation plus I.T.I. in Surveying Trade and persons holding that qualification were appointed on that post. Later this qualification was raised to B.Sc. or Diploma in Agriculture. A number of persons having B.Sc qualification or B.Sc Agriculture have been appointed as Field Supervisors. After appointment a Field Supervisor has to undergo a compulsory initial training of seven months" duration at Soil Conservation Research Training Centre, Hazaribagh. The duration of refresher is 45 days to six months. The initial training is based upon purely technical education that the following subjects are taught in the initial training which is divided in two parts, Theory and practical. The theory paper carrying 600 marks and practical paper carrying 400 marks. The requisite qualification of

the Surveyor in the Directorate is matriculation with I.T.I. with surveying Trade. During entire career of their service, a Surveyor is merely required to go for a refresher course once or twice of the duration of a week or a fortnight. For instance, Amins were appointed to the post of Surveyors and the Surveyors were appointed to the post of Field Supervisor, which is evident from Annexures 4 and 4/1. The Field Supervisors are incharge of the project under the immediate control of Assistant Soil Conservation Officer. Their duties and functions are overall responsibility of execution of the project under the respective area in their charge. They are responsible for execution of the work from planning to end and in that respect they have to prepare the list of beneficiary. The Field Supervisor is just below in rank to Assistant Soil Conservation Officer.

9. Learned Counsel for the Petitioners further submitted that the works conducted by the Field Supervisor in the Sone Command Area Development Agency after 4th pay Revision Committee Field Supervisor to which recommendation of the 5th Pay Revision Committee is applicable and their responsibility are exactly the same as that of the Petitioners or even lower than the Petitioners have been given the scale of Rs. 1500/- to Rs. 2750/-.

10. The reason behind the rejection of claim of the Petitioners is contained in Annexure 11 (Fitment Pay Revision Committee's Report at pages 210-211) quoted hereunder:

In view of the importance attached to the duties of the post by the Soil Conservation Directorate, it is rather surprising that the recruitment qualification is only matriculation. Obviously we cannot agree to the suggestion, made on the Anomaly Removal Committee also by the Department, that the scale of Field Supervisors should be raised to Rs. 730/- to 1080/- on the ground that the scale of senior and junior Surveyor is Rs. 680-965, the scale of Rs. 730- 1080 would allow promotion without any appreciable jump to such of those Field Supervisors who are promoted as Assistant Soil Conservation Officers. The Fourth Pay Revision Committee equated the Fieldmen and the Field Supervisors and the pre-revised scale of Field Supervisor was Rs. 220-315, the same being for the Soil Samplers and Junior Surveyors. Taking an unilateral decision to raise the scale of only the Field Supervisors would lead to a demand for higher scale by both categories of Soil Samplers and junior and senior Surveyors.

11. Learned Counsel for the Petitioners has relied upon a decision of the Supreme Court reported in Delhi Veterinary Association Vs. Union of India (UOI) and Others, . in which similar grievance has been made by the Delhi Veterinary Association in the matter of disparity between their pay scale and pay scale of similar persons in employment of Central Government and Union Territory of Chandigarh. The Supreme Court allowed the legitimate claim of the Petitioner and the matter was left to be decided by the Pay Revision Committee.

12. It is relevant to mention here that the relevant factors pointed out by the Director, Soil Conservation as also of the report of Anomaly Committee have not

been touched by the Fitment Pay Revision Committee. The reason for rejection given by the committee cannot be said to be rational and germane to the issues involved.

13. The Petitioners have made out a case for interference of this Court under Article 226 of the Constitution of India. The result of the discussion made above is that the Petitioner's claim deserves reconsideration at the hands of Respondent Nos. 2 and 3 or whoever at the moment is competent to deal with the matter. It is relevant to notice that no counter affidavit has been filed by the Respondents to controvert the claim of the Petitioners.

14. In the result, this application is allowed and the impugned decision of Pay Revision Committee is hereby quashed and the mandamus is issued to the Respondent Nos. 2 and 3 to reconsider the matter in the light of observation made in this judgment and the relevant facts contained in the writ application. The Petitioners are directed to file a fresh representation along with a copy of the writ application with annexures and order passed for proper appreciation by the authority concerned within one month from today. No cost.