
(1998) 10 PAT CK 0018

In the Patna High Court

Case No : C.W.J.C. No's. 3017 of 1988 and 9402, 10251, 10510, 10511, 10573, 10675 of 1994

Vishnu Sugar Mills Ltd.

APPELLANT

Vs

State of Bihar and Others

RESPONDENT

Date of Decision : 09-10-1998

Acts Referred:

Bihar Factories Welfare Officers Rules, 1952 — Rule 6(1), 6(2), 6(5)
Constitution of India, 1950 — Article 14
Factories Act, 1948 — Section 112, 115, 49(2)

Citation : (2000) 3 LLJ 1642 : (1998) 3 PLJR 686

Hon'ble Judges : I.P. Singh, J; B.N. Agrawal, J

Bench : Division Bench

Final Decision : Allowed

Judgement

B.N. Agrawal, J.—All the writ applications except Civil Writ Jurisdiction Case No. 3017 of 1988 have been filed for quashing Sub-rules (2) and (5) of Rule 6 of the Bihar Factories Welfare Officers' Rules, 1952 (hereinafter referred to as rules), as substituted by Government notification bearing S.O. 119, dated April 27, 1994 contained in Annexure 1, whereas in Civil Writ Jurisdiction Case No. 3017 of 1988 prayer has been made for quashing that portion of Government notification, dated May 20, 1985, contained in Annexure 1, whereby the revised scale of pay prescribed under Sub-rule (1) of Rule 6 of the Rules has been made effective from April 21, 1981.

2. The short facts are that the petitioners in these writ applications are different Sugar Mills within the State of Bihar employing Welfare Officers as required u/s 49(1) of the Factories Act, 1948 (hereinafter referred to as Act), 1948. u/s 49(2) of the Act the concerned State Government is required to prescribe the duties, qualifications and conditions of service of Welfare Officers employed under Sub-section (1) of Section 48 of the Act. u/s 112 of the Act the concerned State Government is empowered to make rules providing for any matter to give effect to the purpose of the Act. u/s 115 of the Act every rule made under the Act,

which is required to be published in the Official Gazette, is required to be laid before the State Legislature. Purporting to Act u/s 49(2) read with Section 112 of the Act, the Bihar Government framed the Rules in the year 1952, Rule 6 whereof prescribed grades and scales of pay together with dearness and other allowances payable to Welfare Officers, which rule was amended from time to time. By notification, dated May 20, 1985, issued by the State Government, contained in Annexure 1 to Civil Writ Jurisdiction Case No. 3017 of 1988. Rule 6 of the Rules was substituted prescribing revised scale of pay of Welfare Officers making the same effective from retrospective date, that is, April 21, 1981. The substituted Rule 6 of the Rules reads thus:

"6. The grades of Welfare Officers and their pay-scales.- (1) There shall be the following grades of Welfare Officers with the minimum scale of pay as mentioned against each grade namely:

- (a) Grade III Rs. 880-35-1,370-45-1,510
- (b) Grade II Rs. 1,000-50-1,700-60-1,820
- (c) Grade I Rs. 1,575-50-1,775-75-2,300
- (d) Selection grade Rs. 1,900-75-2,500

The revised pay-scale shall come into force from April 1981:

Provided that the existing Welfare Officers shall draw as initial pay at the stage in the revised scale of the post next above the amount arrived at by adding 15 per cent (fifteen per cent) of his substantive pay in the old scale subject to the minimum of Rs. 60 and maximum of Rs. 75 to his substantive pay but no employee shall be placed below the maximum in the revised pay-scale of the grade to which he belongs. All disputes relating to the fitment in the revised scale of pay shall be referred to the Chief Inspector of Factories, Bihar, whose decision in this regard shall be final.

(2) Over and above, the scale of pay prescribed in Sub-rule (1) every Welfare Officer shall be entitled to get dearness and other allowance and such other benefits and privileges under any scheme or otherwise as may be admissible to officers or employees of similar rank or status or receiving similar scale of pay in the establishment to which the Welfare Officer belongs."

3. Thereafter by another notification, dated April 27, 1994, issued by the Bihar Government, further amendments were made in Rule 6 of the Rules and thereby the existing Rule 6 was substituted. Under the substituted Sub-rule (1) of Rule 6 of the Rules pay-scale was revised and under Sub-rule (2) the same was made effective from a retrospective date, that is January 1, 1986. Under Sub-rule (5) dearness allowance (hereinafter referred to as DA) admissible to the State Government servants employed in such scales from time to time for the first time adopted for Welfare Officers. The substituted Rule 6 of the Rules reads thus:

"6. Grant of Welfare Officers and their pay-scales. (1) There shall be the

following grades of Welfare Officers with the minimum scale of pay as mentioned against each grade, namely:

(a) Grade III Rs. 1,640-60-2,600 -75-2,900

(b) Grade II Rs. 2,000-60-3,000-75-3,200-100-3,800

(c) Grade I Rs. 3,000-100-3,500-125-4,500

(d) Selection Grade Rs. 3,700-125-4, 700-150-5,000

(2) The revised pay-scales shall come into force from January 1,1986, but the financial benefit be given from March 1, 1988.

(3) Pay of Welfare Officers working on January 1, 1986 will be fixed from B in the above mentioned grade and pay-scale.

(4) All disputes relating to the fitment in the revised scale of pay shall be referred to the Chief Inspector of Factories, Bihar, whose decision in this regard shall be final.

(5) Over and above the scales of pay prescribed in Sub-rule (1) every Welfare Officer shall be entitled to get dearness allowance as admissible to the State Government servant employed in such scales from time to time.

(6) Besides dearness allowances as mentioned in Para 5 above, every Welfare Officer shall be entitled to get any other allowances and such other benefit and privileges as may be admissible to officers or employees of similar ranks to pay in the establishments to which the Welfare Officer belongs.

(7) Those Welfare Officers who will reach on maximum stage of their pay-scale they will automatically be placed in the next higher scale and will get all benefits of such higher scale."

4. Challenging the relevant portions of the aforesaid two notifications, referred to above, the present writ applications have been filed and the first point raised by learned counsel appearing on behalf of the petitioners is that u/s 49(2) of the Act rules can be framed in relation to only those conditions of service, which relate to duties and qualifications of Welfare Officers and no rule can be framed regarding other conditions of service, namely, prescribing scale of pay and allowances payable to a Welfare Officer employed in a factory. In my view, for better appreciation it will be useful to refer to the provisions of Sections 49 112 and 115 of the Act, which run thus:

"Section 49. Welfare Officers. - (1) In every factory wherein five hundred or more workers are ordinarily employed the occupier shall employ in the factory such number of Welfare Officers as may be prescribed.

(2) The State Government may prescribe the duties, qualifications and conditions of service of officers employed under Sub-section (1).

Section 112. General power to make rules. -The State Government may make rules providing for any matter which, under any of the provisions of this Act is to be or may be considered expedient in order to give effect to the purposes of this Act.

"Section 115 Publication of rules - All rules made under this Act shall be published in the Official Gazette and shall be subject to the conditions of previous publication and the date to be specified under Clause (3) of Section 23 of the General Clauses Act, 1897 (X of 1897), shall be not less than forty-five days from the date on which the draft of the proposed rules was published.

(2) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature."

5. From a bare perusal of Section 49(2) of the Act, referred to above, it would appear that the phrase "conditions of service is not limited to the words "duties" and "qualification". The "comma after the word duties" and the word "and" after the word "qualifications" makes it abundantly clear that each of the words has been used disjunctively and the same is independent of one another. Reference in this connection may be made to the decision of the Supreme Court in the case of Associated Cement Companies Ltd. Vs. P.N. Sharma and Another, . That was a case in which validity of Rule 6 of Punjab Welfare Officers' Recruitment and Conditions of Service Rules, 1952, framed u/s 49(2) of the Act was challenged. Under the said Rule 6 various punishments, which could have been awarded against a Welfare officer were prescribed subject to right of appeal before appropriate authority. The ground of attack to the said rule was that purporting to Act u/s 49(2) the State Government had no jurisdiction to prescribe punishment under Rule 6. The Apex Court repelled the submission and holding Rule 6 to be valid observed; 1965-I-LLJ-433 at 447, 448:

"Let us first examine the contention about the invalidity of the rule itself. We have noticed that Section 49(2) of the Act confers on the State Government authority to prescribe the duties, qualifications and conditions of service of officers employed under Sub-section (1), so that there can be no doubt that the State Government would be competent to make rules which prescribe the conditions of service of Welfare Officers. The question is whether Rule 6 which purports to prescribe such conditions of service is ultra vires Section 49(2) of the Act inasmuch as it imposes on the management the obligation to secure the concurrence of the Labour Commissioner before inflicting on the Welfare Officer the punishments to which the second proviso to Rule 6(3) refers: In our opinion, the words conditions of service used in Section 49(2) are wide enough to cover the proviso in question and Sub-rules (4), (5) and (6) of Rule 6. Under what circumstances an employee's service can be terminated and subject to what conditions, can well be the subject-matter of a contract of employment, because conditions of service would take in the termination of service and incidentally, the conditions subject to which such termination could be brought about. If that be so, we see no reason why a statutory rule imposing the obligation on the

management as prescribed by the second proviso in question should be said to fall outside Section 49(2) of the Act. The object of conferring on the State Government the power to frame rules in that behalf obviously is to afford special protection to Welfare Officers appointed u/s 49(1), and if respondent 2 thought that the best way to assure security of tenure to such officers was to require that they should not be dismissed or otherwise punished without obtaining the consent of the Labour Commissioner as required by the second proviso to Rule 6(3) it would be difficult to hold that a rule made by respondent 2 in that behalf is not justified by the power conferred on it by Section 49(2). Therefore, we are not impressed by Sri Setalwad's argument that the rule in question is ultra vires or invalid."

Thus, I have no difficulty in holding that u/s 49(2) of the Act, the State Government was empowered to frame rules not only with regard to duties and qualifications of Welfare Officer but regarding other conditions of service as well.

6. Learned counsel for the petitioner next contended that the expression "conditions of service" as used in Section 49(2) of the Act does not include fixation/revision of pay-scales and/ or dearness or other allowances, whereas, on the other hand, learned counsel appearing for the respondents submitted that the same would include fixation/revision of pay-scales and dearness and other allowances payable to a Welfare Officer. Reference in this connection may be made to the provisions of the Industrial Employment (Standing Orders) Act, 1946 (hereinafter referred to as Standing Orders Act), Section 2(1) whereof defines "wages" and "workman" to have the same meaning as assigned to it in Clauses (rr) and (s), respectively of Section 2 of Industrial Disputes Act, 1947 (in short I.D. Act). Section 9A of the I.D. Act provides that no employer shall effect any change in the "conditions of service" to any workman in respect of any matter specified in the Fourth Schedule without giving any notice to the concerned workman. Item (1) of the Fourth Schedule provides for notice to be given in respect of change relating to "wages including the period and mode of payment". Further Section 7A of the I.D. Act provides that the appropriate Government may constitute one or more Industrial Tribunal for adjudication of industrial disputes relating to any matter specified in the Second Schedule or Third Schedule. Items (1) and (2) of the third Schedule provides for adjudication of wages, compensatory allowances, etc. Item (7) provides for classification by grades. Thus, it is evident that the expression "conditions of service" included wages.

7. References in this connection may be made to a Division Bench decision of Allahabad High Court in the case of Employees Association of Northern India v. Secretary for labour, Uttar Pradesh Government, Lucknow, and Anr. A.I.R 1952 All.109 wherein validity of Rule 6 of Factories Welfare Officers' Rules, 1949, framed by the Uttar Pradesh Government acting u/s 59(2) of the Act, prescribing grades and scales of pay of Welfare Officers was challenged on the ground that grades and scale of pay do not come within the expression "conditions of

service." Repelling the contention the Court held that the Government was empowered to frame such a rule and laid down the law thus:

"Rule 6 lays down that there shall be three grades of Welfare Officers, drawing different scales of pay. Grade I which carries the highest scale of pay is meant for Welfare Officers employed in factories ordinarily employing 2500 or more workers per day. Grade II and III relate to factories ordinarily employing from 1000 to 2499 workers per day and from 500 to 999 workers per day respectively. It is quite obvious that the prescription of these officers and their scales of pay is nothing except the conditions of service of these officers. It was obviously competent for the Provincial Government, when prescribing the grades of officers, to make a distinction between Welfare Officers employed for factories employing more workers and those employing smaller number. The prescription of the scales of pay is also quite clearly one relating to the conditions of service of the officers. This rule, therefore, clearly falls within the purview of the rule making power of the provincial Government under Sub-section (2) of Section 49, Factories Act, 1948, and is, therefore, a valid rule."

8. In the case of State of Madhya Pradesh and Ors. v. Shardal Singh 1970 (I) S.CC 108 the Apex Court held that the expression "conditions of service" would include all those conditions from the stage of appointment till retirement and the matter like pension, etc, as -well. The Court observed thus:

"The expression "conditions of service" means all those conditions which regulates the holding of a post by a person right from the time of his appointment till his retirement and even beyond it in matters like pension, -etc."

9. In the case of I.N. Subba Reddy Vs. Andhra University and Others, reiterating the same view the Court observed thus:

"As explained by this Court in State of Madhya Pradesh v. Shardal Singh (supra) the expression "conditions of service" means all those conditions which regulate the holding of a post by a person right from the time of his appointment till his retirement and even beyond it, in matters like pension, etc."

10. In the case of State of Punjab Vs. Kailash Nath, the Apex Court was considering scope of the expression "conditions of service" within the meaning of Article 309 of the Constitution of India and laid down the law that the same would include pay-scale as well. The Court observed thus in State of Punjab Vs. Kailash Nath,

"In the normal course what falls within the purview of the term "conditions of service", may be classified as salary or wages including subsistence allowance during suspension, the periodical increments, pay-scale, leave, provident fund, gratuity, confirmation, promotion, seniority, tenure or termination of service, compulsory or premature retirement, superannuation, pension, changing the age of superannuation, deputation and disciplinary proceedings....."In view of foregoing discussions, I hold that the expression "conditions of service" would

include fixation/ revision of pay-scale or dearness and other allowances within the meaning of Section 49(2) of the Act.

11. The other point raised by learned counsel appearing on behalf of the petitioner is that while making amendment in Rule 6 of the Rules by notifications, dated May 20, 1985 and April 27, 1994, the State Government was not justified in making the amendments effective from a retrospective date, as on plain reading of Sections 49(2), 112 and 115 of the Act, referred to above, it becomes clear that thereby neither in express terms Government has been empowered to make rules with retrospective effect. Reference in this connection was made to various decisions of the Supreme Court. In the case of the Income Tax Officer, Alleppey Vs. M.C. Ponnose and Others, an Income Tax Officer took steps to recover the arrears through the Tahsildar. Certain shares standing in the name of the assessee were attached by the Tahsildar. The respondent before the Supreme Court obtained a decree for certain sum against the assessee and in execution of the same he got the shares in the name of the assessee attached, which was challenged before Kerala High Court by filing a writ application on the ground that a notification empowering the Tahsildar to exercise powers of tax recovery officer with retrospective effect was invalid. The learned single Judge of the High Court declared the notification empowering the Tahsildar with the powers of Tax Recovery Officer with retrospective effect to be invalid and the said decision was affirmed by the Division Bench of the High Court, and ultimately, by the Apex Court, which laid down the law as follows:

"The short question for determination, therefore, was and is whether the State Government could invest the Tahsildar with the powers of a Tax Recover Officer under the aforesaid provisions of the Act with effect from a date prior to the date of the notification. Even when the Parliament enacts retrospective laws such laws are - in the words of WILLES, J. in Phillips v. Eyre (1971) 40 Q.B.28, "no doubt prima facie of questionable policy, and contrary to the general principle that legislation by which the conduct of mankind is to be regulated ought, when introduced for the first time, to deal with future acts, and ought not to change the character of past transactions carried on upon the faith of the then existing law". The Courts will not, therefore, ascribe retrospectivity to new laws affecting rights unless by express words or necessary implication of the Legislature. The Parliament can delegate its legislative power within the recognised limits. Where any rule or regulation is made by any person or authority to whom such powers have been delegated by the Legislature it may or may not be possible to make the same so as to give retrospective operation. It will depend on the language employed in the statutory provision which may in express terms or by necessary implication empower the authority concerned to make a rule or regulation with retrospective effect. But where no such language is to be found it has been held by the Courts that the person or authority exercising subordinate legislative functions cannot make a rule, regulation or bye-law which can operate with retrospective effect."

12. In the case of Dr. Indramani Pyarelal Gupta Vs. W.R. Nathu and Others, the Apex Court while noticing the distinction between the law made by the Legislature and the same made by a Government, to whom power was delegated, observed thus:

"In the case of the Legislature, Article 246 of the Constitution confers a plenary power of legislation subject to the limitations mentioned therein and in other provisions of the Constitution in respect of appropriate entries in the Seventh Schedule. This Court, in The Union of India Vs. Madan Gopal Kabra, held that the Legislature can always legislate retrospectively, unless there is any prohibition under the Constitution which has created it. But the same rule cannot obviously be applied to the Central Government exercising delegated legislative power, for the scope of their power is not coextensive with that of Parliament. This distinction is clearly brought out by the learned Judges of the Allahabad High Court in Modi Food Products Ltd. Vs. Commr. of Sales Tax, U.P., wherein the learned judges observed:

"A Legislature can certainly give retrospective effect to pieces of legislation passed by it but an executive Government exercising subordinate and delegated legislative powers, cannot make Legislation retrospective in effect unless that power is expressly conferred."

13. In the case of Hukam Chand etc. Vs. Union of India (UOI) and Others, the Apex Court was considering powers of the Central Government to frame Rules u/s 40 of Displaced Persons (Compensation and Rehabilitation) Act 1954, with retrospective effect. In that case while holding that the Central Government was not empowered to frame the rules with retrospective effect the Apex Court observed thus:

"Perusal of Section 40 shows that although the power of making rules to carry out the purposes of the Act has been conferred upon the Central Government, there is no provision in the section which may either expressly or by necessary implication show that the Central Government has been vested with power to make rules with retrospective effect. As it is Section 40 of the Act which empowers the Central Government to make rules, the rules would have to conform to that section. The extent and amplitude of the rule making power would depend and be governed by the language of the section. If a particular rule were not to fall within the ambit and purview of the section, the Central Government in such an event would have no power to make that rule. Likewise, if there was nothing in the language of Section 40 to empower the Central Government either expressly or by necessary implication, to make a rule retrospectively, the Central Government would be acting in excess of its power if it gave retrospective effect to any rule."

14. In the case of Regional Transport Officer, Chittoor and Others Vs. Associated Transport Madras (P) Ltd. and Others, the Apex Court was considering powers of Andhra Pradesh Government to frame rules u/s 4(1) of the Andhra Pradesh

Motor Vehicles (Taxation of Passengers and Goods) Act, 1952, with retrospective effect. When the said rule was challenged before the Andhra Pradesh High Court, the same was struck down as invalid and upholding the judgment of the High Court, the Apex Court laid down the law, which runs thus:

"The Legislature has no doubt a plenary power in the matter of enactment of statutes and can itself make retrospective laws subject, of course, to the constitutional limitations. But it is trite law that a delegate cannot exercise the same power unless there is special conferment thereof to be spelled out from the express words of the delegation or by compelling implication. In the present case the power u/s 4(1) does not indicate either alternative.

x x x The mere fact that the rules framed had to be placed on the table of the Legislature, was not enough in the absence of a wider power in the section, to enable the State Government to make retrospective rules."

15. From a conspectus of the aforesaid decisions, it becomes clear that a delegatee has no jurisdiction to frame a rule from a retrospective date if such a power is not delegated to it by the statute either in express terms or by necessary implication. Rule 6 of the Rules has been framed by the State Government in exercise of powers conferred upon it under Sections 49, 112 and 115 of the Act and from a bare perusal of the same, it would be amply clear that the State Government has not been empowered either in express terms or by necessary implication to frame rules with retrospective effect. Therefore, I am clearly of the opinion that the State Government was not justified while issuing the two notifications, referred to above, to direct that the amendment made in Rule 6 shall come into force from retrospective dates mentioned therein.

16. Learned counsel appearing on behalf of the petitioner lastly submitted that by notification, dated April 27, 1994, referred to above. State Government was not justified in incorporating by Sub-rule (5) of Rule 6, that DA admissible to State Government employee shall be payable to the welfare officers. It has been submitted that such amendment in the rule shall have far reaching effect. Undisputedly, Sugar Mills are paying DA to Welfare Officers and other officers similarly situated in their respective establishments. In addition to DA, Welfare Officers and other officers of similar rank in the Sugar Mills are given privileges, enumerated hereunder, which are not admissible to State Government officer of similar rank. No house rent is charged, that is, free accommodation is provided. They are given bonus and contributory provident fund at the rate of 10 per cent of the total salary as the employer's contribution. Higher amount of gratuity is payable to the Welfare Officers vis a vis the officers employed in the service of the State Government. The Welfare Officers are entitled to pension as well under the Employees' Provident Funds Act, whereas in the State Government the officer are required to deposit 15 per cent of their basic pay towards general provident fund, but the Government is not making any contribution to the same.

17. These facts show that the Welfare Officers employed by a Sugar Factory and

an officer of the same rank employed in the State Government cannot be treated as equals and by allowing the Government rate of DA to Welfare Officers, two unequals have been treated equals by the State Government. The equality has to be tested keeping in view the complete set of circumstances as also the conditions of service, which in respect of these classes of officers are entirely different. The officers of the same rank employed in the Government are different as such, they are not comparable with Welfare Officers.

18. It is well settled that DA is allowed to compensate the fall in the value of real wages, various components and increase in expenditure on such components, like housing, education, food, other things are taken into account. The increased expenditure on such components has been considered and taken note of by the Wage Board. There is no separate market of cost of living index for a Welfare Officer compared to other similarly situated officers in the sugar mills.

19. The Welfare Officers were getting DA as allowed by the Sugar Wage Board, which calculated the same on the basis of increase in consumer price index for industrial personnel employed by the Sugar Industry.

20. The intervenors have stated in their counter-affidavits that the Sugar Mills by virtue of tripartite settlement have agreed to implement the Wage Board recommendations on the lines of Uttar Pradesh, but, as stated above, the Government rate of DA has not been adopted in that State for the Welfare Officers Rules of Uttar Pradesh clearly lays down that DA would be paid to a Welfare Officer at the rate it is payable to a senior executive of the factory.

21. Further in case Government rate of DA is allowed the provision in relation thereto, contained in Sub-rule (5) of Rule 6 would become unworkable as on the date of notification, that is, April 27, 1994, the rate of DA, which was payable by the State Government to its employees, was 97 per cent. which should have started from zero on April 27, 1994 as scale of pay was also revised by the very same notification.

22. In my view, action of the State Government in treating the Welfare Officers with officers of same rank employed in the State Government, who are not comparable with each other is discriminatory, as two unequals have been treated as equals for the purpose of adopting Government rate of DA for Welfare Officers. Further there being no reasonable basis for adopting Government rate of DA for Welfare Officers, the action of the State in adopting the same becomes arbitrary. Thus, in my view, Sub-rule (5) of Rule 6 of the Rules, whereby Government rate of DA has been made admissible to Welfare Officers, is violative of Article 14 of the Constitution of India the same being arbitrary and discriminatory.

23. It may be stated that in the case of Harinagar Sugar Mills, which is petitioner in Civil Writ Jurisdiction Case No. 10510 of 1994 an agreement was entered into on April 1, 1991, between the management and the Welfare Officer under which in the said Sugar Mills the Welfare Officer was appointed for a period of five

years upon a monthly salary of Rs. 3,080. During the course of argument, learned counsel appearing on behalf of State as well as the intervenor made a prayer for declaring the said agreement to be invalid. In my view, it is not possible to consider this question in this writ application as this is a mixed question of law and fact and there is no pleading to this effect either by the State or the intervenor. It is well settled that a party should not be allowed to travel beyond the facts stated in the pleading at the stage of argument, so that another party may not, be taken by surprise leading to injustice. Reference in this connection may be made to a decision of the Apex Court in the case of *Municipal Corporation of the City of Jabalpur v. State of Madhya Pradesh and Anr.* AIR 1965 SC 837, wherein the Court laid down the law which runs thus:

"The question as to who a transferor is, obviously a question of fact or at best a mixed question of law and fact and when a party in a writ petition does not allege any such fact, it stands to reason that he ought not to be permitted to travel beyond the facts stated, at the stage of the arguments. To confine a party to his pleadings, particularly to his allegations as regard facts is dictated not merely by the need for orderliness in these proceedings but for avoiding surplus to other party and consequent injustice resulting therefrom".

For the foregoing reasons, I am clearly of the view that it is not possible to examine validity or, otherwise of the agreement, referred to above.

24. In the result, all the writ applications except Civil Writ Jurisdiction Case No. 3017 of 1988 are allowed and Sub-rules (2) and (5) of Rule 6 of the Rules, as amended by Government notifications, dated April 27, 1994, contained in Annexure 1, are struck down as invalid. Civil Writ Jurisdiction Case No. 3017 of 1988 is also allowed and that portion of Government notification, dated May 20, 1985 contained in Annexure 1, whereby revised scale of pay prescribed under Sub-rule (1) of Rule 6 has been made effective from a retrospective date, that is, April 21, 1981 is struck down as invalid. In the circumstances of the case, I direct that the parties shall bear their own costs.