

Sunil Kumar Marandi Vs. State of Jharkhand and Ors.

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Court : Jharkhand

Decided On : Nov-28-2014

Appellant : Sunil Kumar Marandi

Respondent : State of Jharkhand and Ors.

Judgement :

W.P.(S).No. 6034 of 2005 ----- In the matter of an application under Article 226 of the Constitution of India. ----- Sunil Kumar Marandi Petitioner Versus 1. The State of Jharkhand 2. The Principal Secretary, Department of Revenue and Land Reforms 3. The Principal Secretary, Finance Department 4. The Deputy Secretary to the Govt. Finance Department 5. The Director, Land Records and Survey 6. The Settlement Officer, Ranchi Respondents ----- For the Petitioner : Mr. Rajiv Nandan Prasad For the Respondent : Mr. Dhananjay Dubey, Sr. S.C.I Present: HON'BLE MR. JUSTICE APARESH KUMAR SINGH ----- Aparesh Kumar Singh, J:- Heard counsel for the parties.

2. Petitioner's representation for grant of higher scale of pay under the 6th Pay Revision implemented w.e.f. 1.1.1996 vide Finance Department Resolution dated 8.2.1999 has been rejected by the impugned order contained in memo no. 1246 dated 15.6.2005(Annexure-6). Petitioner, who is a Draftsman posted in the Settlement Office at Ranchi had earlier preferred a writ petition being W.P.S. No.2454 of 2002 for fixation of proper scale of pay in terms of the recommendation of the 6th Pay Revision Committee. The writ petition was disposed of on 6.4.2004 vide Annexure-4 with a direction to the Secretary cum Commissioner, Land

Record and Survey Department, Ranchi to take a decision on the representation of the petitioner. The Secretary, Revenue and Land Reforms Department, after considering the representation of the petitioner passed an order dated 1.10.2004, Annexure-5 asking him to prefer a representation before the Secretary, Finance Department, Jharkhand as it was the said department which was competent to take a decision on his claim. The impugned order has been passed thereafter by the Secretary, Finance Department- Respondent no.3.

3. The petitioner's claim is based upon the assertion that under the 2 4th Pay Revision he was drawing the scale of Rs.680-965 while the Surveyors were drawing the scale of Rs. 560-860 i.e. lower to them. Under the 5th Pay Revision also petitioner was drawing the scale of Rs. 1320-2040, which was higher than the scale given to the Surveyor i.e. 1200-1800. It is further contention of the petitioner that under the 6th Central Pay Revision recommendation the scale of Rs.5000-8000 has been given to the Surveyors under the Central Government and a replacement scale of Rs.4500-7000 for those who were there in the pre - revised scale of Rs.1320-2040. However the State Government chose to grant the scale of Rs. 4000-6000 to the petitioner and others who belong to the cadre of Draftsmen in the Land Revenue and Records Department. Upon such fixation of scale petitioner and other Draftsman are placed at par with the Surveyor of the same department, who were all along in lower scale of pay earlier. It is further submitted that the Secretary, Revenue and Land Reforms Department in his order dated 1.10.2004 took into account this disparity and observed that Draftsman were enjoying higher scale of pay under the 4th and 5th Pay Revision than that of the Surveyors. However, instead of accepting the petitioner's claim, he was relegated to the Finance Secretary to take a decision on his claim. The Finance Secretary, however has simply rejected the claim of the petitioner based upon the decision of the Fitment Committee as well as Fitment Appellate Committee constituted by the State Government who have not found any error in the fixation of scale of Draftsman in the Basic Grade.

4. Learned counsel for the petitioner, therefore, has submitted that the disparity in the pay scale has led to inequality in treatment and at the same time those who were lower in scale of pay to the petitioners are now placed in same pay scale

which is also arbitrary. Therefore, petitioner has sought quashing of the impugned order and 3 a direction upon the respondents to fix the scale of the petitioner in the scale of Rs.5000-8000.

5. Respondent- State have appeared and filed their counter affidavit. Learned Sr. Standing Counsel -I has straightway referred to the report of the Fitment Committee at Para 36.2.3(Annexure-A). It is submitted that as per the recommendation of the 5 th Pay Revision the Draftsmen who were Matriculate and having 2 years diploma in Draftsmanship or equivalent will get the scale of Rs.4000-6000 and these Draftsmen were to be designated as Draftsmen Grade-III. Only such Draftsmen who are in the scale of Rs.1400-2300 or in higher scales after initial recruitment on the basis of 10+2 as well as possessing a diploma in engineering or equivalent will get the scale of Rs. 5000-8000. It is submitted that by the aforesaid criteria, petitioner who is only a Matriculate has rightly been placed in the scale of Rs. 4000-6000 in consonance with the recommendation of the Fitment Committee constituted by the State Government implementing the recommendation of the 5th Pay Revision. It is submitted that the Fitment Appellate Committee also did not find error in such fixation of pay based upon the rational criteria adopted by the Pay Revision Committee.

6. I have heard counsel for the parties and gone through the relevant materials on record. At the outset it is to be observed that the revision of pay scale under the 6 th Pay Revision of the Central Government was made department wise and post wise depending upon the nature of duties, qualifications etc for the post for which the scale were being recommended and not on the basis of simple replacement of pre-revised scale of pay by another scale. As per the recommendation of the Pay Revision Committee, specifically in respect of post of Draftsmen, the Fitment Committee constituted by the State Government made a recommendation at Para 36.2.3 4 that the Draftsmen who are Matriculate and having 2 years diploma in Draftsmanship or equivalent will get the scale of Rs. 4000-6000, while the Draftsmen who are in the scale of Rs. 1400-2300 or in higher scale after initial recruitment on the basis of 10+2 as well as possessing a diploma in Engineering or equivalent will get the scale of Rs. 5000-8000. It was also taken note of that in the Central Government there is no distinction in the scale of Surveyor in Basic

Grade and Draftsmen Grade-II / Senior Draftsmen. It is not in dispute that the petitioner has qualification of Matriculation and as per the recommendation of the Fitment Committee, he can be placed in the scale of Rs. 4000-6000 and not in the higher scale of Rs. 5000-8000. As has already been observed herein above, the pay revision carried out under the 4th and 5th Pay Revision Recommendation were based upon the different yardstick and criteria. There might have a different scale of pay for Draftsmen with that of the Surveyor but under the 6 th Pay Revision under the criteria prescribed, an incumbent who satisfied the qualification laid down for the post together with the nature of duties exercised, were to be placed in the prescribed scale and not otherwise simply on the basis of replacement scale of the pre- revised scale. These aspects have been considered by the Secretary, Finance Department while dealing with the claim of the petitioner and no basis has been found to disagree with the recommendation of the Fitment Committee as well as the Appellate Committee. Petitioner has also not been able to show the difference in the nature of responsibilities, qualifications, duties of the post enjoyed by him of Draftsmen with that of the Surveyor. Even otherwise the post of Draftsmen and Surveyor, were treated equal in the Central Pay Scale and the State Government acting upon the report of the Fitment Committee has revised the scale of both the Draftsmen and the Surveyor in the scale of Rs.4000-6000 under the 5 6th Pay Revision.

7. The exercise of fixation of pay being in the domain of the Fiscal Experts are based upon analysis of the laid down criteria i.e. the qualifications, nature of duties and responsibilities of different posts department wise. Unless and until such decision is shown to be arbitrary and discriminatory on the face of it, it should not be interfered in exercise of power under Article 226 of Constitution of India. This Court therefore does not find any reason to interfere with the impugned order.

8. The writ petition is accordingly, dismissed. (Aparesh Kumar Singh, J.)
Jharkhand High Court, Ranchi The 28th day of November, 2014 A. Mohanty / kamlesh