

Sunil Singh and Ors Vs. The State of Jharkhand and Ors

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Court : Jharkhand

Decided On : Aug-17-2016

Appellant : Sunil Singh and Ors

Respondent : The State of Jharkhand and Ors

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P. (C) No. 3693 of 2015
--- 1. Sunil Singh 2. Ashutosh Kumar Singh 3. Sreenu Garapati 4. Raunak Sahay
5. Suraj Singh 6. Pratiush Lala 7. Rajesh Kumar Singh 8. Santosh Kumar Gautam
9. Pran Pranay 10. Ravi Kumar 11. Kumar Rahul Kamlesh 12. Durga Charan
Mishra 13. Naresh Prasad Thakur 14. Suman Kumar Ghosh 15. Kaustav Panda
16. Hemant Kumar Shikarwar 17. Laxmi Murmu 18. Shailendra Jit 19. Hardeo Pd.
Singh 20. Ashok Kr. No. 2 21. Satish Kr. Keshri 22. P.K. Appu 23. Vijay Shankar
Prasad 24. Rajesh Kumar 25. Nagmani Tiwari 26. Abhay Kr. Tiwari 27. Rakesh
Kumar 28. Rajnish Vardhan 29. Ashif Khan 30. Anand Kr. Pandey 31. Moti Gope
32. Kaushal Kishore Mishra 33. S.K. Deo 34. Sudhir Kr. Roy 35. Gauri Shankar
Prasad 36. Vijay Kr. Gupta 37. Nehru Mahto 38. Sanjay Kr. Pandey 39. Shekhar
Sinha 40. Anjani Kr. Toppo 41. Vijay Kr. Roy 42. Sanjay Kr. Srivastava 43. Deepak
Kumar 44. Suraj Mohan 45. Ashok Kumar 46. Ravi Singh --- -- --- Petitioners
Versus 1. The State of Jharkhand 2. The Chief Secretary, Government of
Jharkhand 3. The Finance Secretary, Government of Jharkhand 4. The Law
Secretary, Government of Jharkhand 5. The Secretary, Department of Cabinet
(Vigilance), Government of Jharkhand 6. The Principal Secretary, Department of

Home, Prison and Disaster Management, Government of Jharkhand --- --- Respondents 2. --- CORAM: The Honble Mr. Justice Aparesh Kumar Singh For the Petitioners: Mr. Anil Kumar, Sr. Advocate, Mr. Manish Kumar, Advocate For the Resp - State: Mrs. Aparajita Bhardawaj, JC to A.A.G. For the Intervener: Mr. Saurabh Arun, Advocate --- 17/ 17.08.2016 Heard counsel for the parties.

2. This writ petition was preferred by certain Advocates who are practicing in this Court for framing guidelines for securing the interest of Junior Counsels to the State counsels in consonance with the State Litigation Policy. They alleged discrimination in the fee structure of Junior Counsels compared to the fee structure of Junior Counsels to the State counsels applicable in other High Courts. Certain Additional Public Prosecutors also joined them during pendency of this writ application vide order dated 17.09.2015 to espouse their grievances. The State came out with the Notification bearing memo no. 1414 dated 15.03.2016 issued by the Home, Prison and Disaster Management Department, whereunder a consolidated scale of fee to Additional Public Prosecutors working in this Court was revised to Rs. 1200/- per day. The issue relating to the revision of fee of Junior Counsels working in this Court and also in relation to the Special Public Prosecutors working in this Court, however had not been addressed by them.

3. Taking note of the aforesaid Notification, and the submissions of the Learned A.A.G., the matter was adjourned on 16.03.2016 for the purposes of obtaining instructions on the revision in remuneration of the Junior Counsels and Special Public Prosecutors. After a number of adjournments, now Learned counsel for the State has produced a Notification dated 01.08.2016 of the Cabinet Coordination and Vigilance Department (Vigilance), Government of Jharkhand bearing memo no. 1580, whereunder the consolidated scale of fee of Special Public Prosecutors (Vigilance) in the High Court has been revised to Rs. 1500/- per working day and for the Special Public Prosecutors (Vigilance) engaged in the Special Court of Vigilance to Rs. 750/- per working day. This Notification have been brought into effect from the date of its issuance.

3. 4. Learned Counsel for the State has also brought on record a communication dated 02.08.2016 bearing memo no. 1835 issued by the Law (Justice)

Department, Government of Jharkhand whereunder, fee structure of State Law Officer such as Advocate General / Additional Advocate General / Senior Standing Counsel No. I & II / Standing Counsel / Government Advocate and their Junior Counsels have been revised and fixed as per the chart contained thereunder and as per the clauses / conditions contained in the said communication. For better appreciation, contents of the said letter are being quoted hereunder:

2. izLrko esa eaf=ifj"kn` dh Lohd`fr fnukad&26-07-2016 ds en la[k&27 ds :i esa izklr gSA3 fo"k;kafdr 'kqYd fu/kkZj.k ds ekeysa ij jkT; ljdkj }kjk ;g eglwl fd;k x;k fd fof/k inkf/kdkfj;ksa ds fu/kkZfjr izfr/kkj.k 'kqYd esa o`f) okaNuh; gS vkSj nSfud ,Meh'ku] nSfud lquokbZ rFkk voekuukokn@fofo/k okn ds fy, tks vyx&vyx 'kqYd fu/kkZfjr gS] mls lesfdr :i ls ,d 'kqYd ns; gks c'krsZ dh fof/k inkf/kdkfj;ksa }kjk izfrfnu de&ls&de fdlh izdkj ds rhu oknksa dk fof/k lapkyu fd;k tk,A ;fn muds Lrj ls nks ls de okn dk fof/k lapkyu fdlh fnu fd;k tkrk gS rks mUgSa lekuqikfrd 'kqYd Hkqxr; gksxkA rkRi;Z ;g gS fd izfrfnu nks okn gksus ij iwjk nSfud 'kqYd rFkk ,d okn gksus ij vk/kk 'kqYd ns; gksxkA lkFk gh ;g 'kqYd dk;Z fnol ds fy, ns; gksxh@Reference bR;kfn] U;k;ky; dk;Z ugha gksus ij 'kqYd ns; ugha gksxkA4 ekuuh; >kj[kaM mPp U;k;ky; esa egkf/koDrk ,oa vij egkf/koDrk.k }kjk jkT; ljdkj ls lacaf/kr fdlh Hkh ekeysa esa i{k j[kus ds fufeRr muds duh; vf/koDrkvksa dks izfr dk;Z fnol :0 1]600@& ,d gtkj Ng lkS :i;s ek= dks NksM+dj 02 nks ls vf/kd ekeyksa esa mifLFkfr dh fLFkfr esa vfrfjDr :0 800@& vkB lkS :i;s ek= dh izfr dk;Z fnol rFkk vf/kdre :0 8000@& vkB gtkj :i;s ek= 'kqYd ds :i esa ns; gksxkA5 mDr fcUnqvksa ds izfjizs{; esa jkT; ljdkj }kjk >kj[kaM mPp U;k;ky;] jkph ds fof/k inkf/kdkfj;ksas ;Fkk&egkf/koDrk@vij egkf/koDrk@jkt dh; vf/koDrk@ ojh; LFkk;h lykgdkj@ljdkjh odhy rFkk muds duh; vf/koDrk dk fuEu:is.k 'kqYd fu/kkZj.k fd;k x;k gS& ekad fof/k inkf/kdkjh dk inuke izfr/kkj.k 'kqYd vf/kdre nSfud 'kqYd 2 3 4 1 egkf/koDrk :0 40]000@& :0 10]000@& 2 vij egkf/koDrk :0 17]000@& :0 8]000@& 3 ojh; LFkk;h lykgdkj la[k;k&l ,oa ll :0 10]000@& :0 6]000@& 4 jkt dh; vf/koDrk :0 9]500@& :0 5]500@& 5 ljdkjh odhy@LFkk;h lykgdkj :0 8]000@& :0 4]000@& 6 egkf/koDrk@ fof/k inkf/kdkjh ds duh; &&& :0 1]600@& vf/koDrk 4. 6- ;g vkns'k foRrh; o"kZ201617 esa fnukad 01-09-2016 ls izHkkoh gksxk rFkk iwoZ fuxZr 'kqYd fu/kkZj.k laca/kh fof/k foHkkxh; Kki la[k;k&09 fnukad 19-08-2014 dks bl va'k rd la'kksf/kr ekus tk;saxsA7 'kqYd fu/kkZj.k@iqujh{k.k ds izLrko ij foRr foHkkx dh lgefr izklr gSA5 The issue relating to revision in fee structure of the Learned Junior

Counsels / Additional Public Prosecutors and Special Public Prosecutors (Vigilance) have been resolved in view of the aforesaid Notification. Learned counsel for the petitioner however submits that in view of the latest revision in the fee structure of the State Counsels, fee structure of Additional Public Prosecutors earlier notified on 15.03.2016 vide memo no. 1414 @Rs. 1200/- per working day, is not at par with the other Junior counsels working under the State Counsels. Learned counsel for the petitioners submits that if the grievances of the petitioners who are Additional Public Prosecutors in relation to any disparity in the fee structure on revision vide Notification dated 15.03.2016 bearing memo no. 1414 is not resolved, they may be allowed liberty to assail the Notification on all available grounds of law and facts in an appropriate proceeding. They are at liberty to do so. Additional Public Prosecutors are at liberty to make a representation through the Office of Advocate General in respect of their claims of parity with other Junior Counsels before the competent authority under the State of Jharkhand. Needless to say, on such representation, due consideration would be accorded by the Respondents.

6. I.A. No. 5251/2016 has been preferred on behalf of applicants who claim to be the Advocates' Clerk of the Law Officers practicing in this Court. They contend that remuneration / professional fee paid to these Advocates' Clerks @Rs. 3,500/- per month is considerably less keeping into regard the minimum wages prescribed under the Minimum Wages Act. The grievance of these applicants were earlier raised in WPC No. 1760/3024 which was disposed of with a direction to the Respondent authorities to pass a reasoned order vide judgment dated 02.07.2013. The fee structure was thereafter enhanced from Rs. 1500/- to Rs. 3500/-. However, according to them, it is still not commensurate with the prescribed minimum wages 5. for skilled workman / labourer in the State, as notified by the Department of Labour and Employment, Government of Jharkhand.

7. Having considered the instant grievances raised on behalf of the applicants, it appears that the petitioners have a distinct and separate cause of action which they have earlier also raised in a writ petition. However, if they have grievance relating to the fee structure, they are at liberty to make a representation through the State Counsels / office of the Advocate General before the Law Department for

consideration and enhancement of the fee structure, duly supported with all facts and documents. Needless to say, the competent authority under the State would accord due consideration on their representation within a reasonable time, preferably within a period of three month. The instant I.A. stands disposed of with the aforesaid observations.

8. In view of the revision brought into effect in the matter of fee structure of the State Counsels, Junior Counsels, Special Public Prosecutors and Additional Public Prosecutors, writ petition is accordingly disposed of. All pending I.As are closed.
(Aparesh Kumar Singh, J) Ranjeet/

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