

**(2002) 04 JH CK 0006**

**Jharkhand High Court**

**Case No:** Writ Petition (S) No. 558 of 2002

Mahesh Prasad Gupta

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

**Date of Decision:** April 16, 2002

**Acts Referred:**

- Constitution of India, 1950 - Article 226

**Hon'ble Judges:** S.J. Mukhopadhyaya, J

**Bench:** Single Bench

**Advocate:** Anoop Kumar Mehta, for the Appellant; Pawan Kumar Choudhary, GP I, for the Respondent

### **Judgement**

@JUDGMENTTAG-ORDER

S.J. Mukhopadhyaya, J.

The petitioner, being not satisfied with the replaced pay scale provided to him, has challenged the decision taken

by the respondents and communicated through letter No. 879 (Estt.) dated 25.9.2001, whereby and whereunder, the Deputy Commissioner,

Palamu has rejected the prayer to provide the pay scale of Rs. 1600--2780/-, in place of Rs. 1500--2750/- to him.

2. A prayer has also been made to direct the respondents to pay the petitioner his GPF amount, taking into consideration the deductions made

between the period 1954 and 1975, the accounts of which was kept with the A.G., Bihar.

3. The case of the petitioner is that he was appointed on 30.5.1954 as a Stenographer at Palamu Collectorate and was allowed First Time Bound

Promotion to Junior Selection Grade with effect from 1.4.1981 followed by Second Time Bound Promotion granted in the Senior Selection Grade

with effect from 1.4.1984. The petitioner was allowed Sr. Selection Grade in the pay scale of Rs. 785-- 1210/-. After acceptance of the

recommendations made by the Pay Revision Committee vide resolution dated 18th December, 1989, the Stenographers were provided with

replaced pay scale of Rs. 1400--1600/- and 1500-- 2750-. The petitioner having been granted Sr. Selection Grade was provided with replaced

scale of Rs. 1500--2750/- in place of Rs. 785--1210/- (old scale).

4. Some of the persons who were in the Junior Selection Grade Stenographers, being not satisfied, represented before the Pay Anomaly Removal

Committee. The said committee on consideration recommended to provide replaced scale of Rs. 1500--2750/- to Junior Selection Grade

Stenographers, which was accepted by Govt. Resolution dated 8th February, 1996.

5. After the acceptance of recommendation of the Pay Anomaly Removal Committee. vide resolution dated 8th February, 1996, the scale of pay

of Junior Selection Grade and Senior Selection Grade Stenographers became same i.e. Rs. 1500--2750/-. This, according to petitioner, created

anomaly, both Junior Selection Grade and Senior Selection Grade Stenographers having been provided the same scale of Rs. 1500--2750/-. In

this background the persons like petitioner, who were in the Senior Selection grade, sought for next higher replaced scale of Rs. 1600-- 2780/-

and had to move before the Court in CWJC No. 968/1999 @ which was disposed of with a direction to respondents to decide the

representation. The said representation now stands rejected by Deputy Commissioner, Palamau vide letter No. 879 dated 25th September, 2001.

6. The stand taken by petitioner that the Senior Selection Grade being the next higher grade to Junior Selection Grade, which is also allowed on

2nd Time Bound Promotion, should be provided with next higher replaced scale of Rs. 1600--2780/-. However, the question as to which

replaced scale be provided to one or other grade employees of the State cannot be determined by this Court under Article 226 of the Constitution

of India, as the matter requires determination by a committee of expert, such as, Pay Revision Committee/Pay Anomaly Removal Committee or

the competent authority of the State. It is also true that the Deputy Commissioner of a district is also not competent to determine as to which

replaced pay scale should be provided to one or other category of employee and, thus, instead of decision by himself, the Deputy Commissioner,

Palamu should have referred the matter to the Finance Department of the State for determination of the issue.

7. In the aforesaid background the decision of Deputy Commissioner, Palamu communicated vide letter No. 879 dated 25th September, 2001 is

set aside and the petitioner is given liberty to bring the matter to the notice of Finance Commissioner cum Secretary, Finance Department.

Government of Jharkhand, Ranchi, who will determine the issue, if required taking opinion of a committee and communicate the decision to the

petitioner on an early date, preferably within six months.

8. So far as the contribution towards G.P.F. for the year 1954 to 1975 is concerned, the District Provident Fund Officer, Palamu has stated that

the opening balance for the period 1970- 71 was Rs. 3714/- wherein interest up to the year 1994 has been added and the same has been sent to

the A.G., Bihar for issuance of an authority slip for Rs. 7883/- which has been issued vide letter No. 475 dated 26th February. 2000 for payment

in favour of petitioner. A chart showing the calculation, enclosed to the counter affidavit, however, shows the opening balance of Rs. zero as of the

year 1975-76. As it is not clear as to how the opening balance has been shown to be zero, the case is remitted to the District Provident Fund

Officer, Palamu who will verify and recalculate the P.F. amount taking into consideration the opening balance of the year 1970-71 as mentioned

in the counter affidavit and forward the calculation chart to petitioner within six weeks from the date of receipt of the production of a copy of this order.

9. On such calculation, if any further amount is found payable, the District Provident Fund Officer, Palamu shall pay the amount in favour of petitioner within a month thereof.

10. The writ petition stands disposed of with the aforesaid observations and directions.