

**(2003) 02 JH CK 0030****Jharkhand High Court****Case No:** WPS No. 4041 of 2001

Seo Shankar Chaudhary and  
Others

**APPELLANT****Vs**

State of Jharkhand and Others

**RESPONDENT****Date of Decision:** Feb. 25, 2003**Acts Referred:**

- Constitution of India, 1950 - Article 226

**Citation:** (2004) 3 JCR 79**Hon'ble Judges:** M.Y. Eqbal, J**Bench:** Single Bench**Advocate:** Saurav Arun, for the Appellant; R.S. Mazumdar and A. Banerjee, for the Respondent**Final Decision:** Allowed**Judgement****@JUDGMENTTAG-ORDER**

M.Y. Eqbal, J.

Heard the counsel for the parties.

2. The petitioners are aggrieved by the fixation of their pay scale i.e. the scale of Rs. 2550-3200/- petitioners" case is that they were appointed in Class-IV post as Chaukidar/Peons on different dates in between 1979 and 1989. All the petitioners were given first time bound promotion in the years 1991/1993 and were placed in the pay scale of Rs. 800-1150/-. In terms of the resolution dated 8.2.99 the pay scale of Rs. 800-1150/- was revised to Rs. 2610-35540/-. In spite of the said resolution, instead of fixing the pay scale of the petitioners in the revised pay scale of Rs. 2610-3540/-, the respondents have illegally placed the petitioners in the pay scale of Rs. 2550-3200/-.

3. In the counter affidavit filed by respondent No. 4, the Executive Engineer, it is stated that the petitioners were given time bound promotion in the pay scale of Rs. 800-1150/- but in terms of the resolution of the Law Department the pay scale of the orderly peons was revised and re-fixed at Rs. 2550-3200/-. In the counter affidavit filed by respondent Nos. 2 and 3 the time bound promotion given to the petitioners has not been denied or disputed but it is contended that by the resolution dated 8.2.99 the State Government decided to abolish the existing facilities of time bound promotion and consequently the time bound promotion given to the petitioners have been automatically terminated and, therefore, they are now entitled to be placed in the revised pay scale of Rs. 2550-3200/-. In support of this fact the respondents have annexed a copy of the resolution of the Finance Department dated 8.2.99 as Annexure B to the counter affidavit.

4. Learned counsel for the respondents has drawn my attention to Schedule-III of the said resolution and submitted that the pay scale of the orderly peons was Rs. 775-1025/- which corresponds to the revised pay scale of Rs. 2550-3200/. Paragraph 11 of the said resolution by which the pay scale of the Government employees has been revised is worth to be quoted hereinbelow :

"The State Government have decided to abolish the existing facilities of Time Bound Promotions and Selection Grades, discussed in paras 10 and 12 of F.D. Resolution No. 6021, Dt. 18th December, 1989 and they shall cease to be applicable with effect from 1st January, 1996 and thereafter in the existing pay scales. If any such promotion, however, is due under the Rules before 1st January, 1996 it shall be given and the payment of arrears in the existing scale shall be made only upto 31" December, 1995 after which the promotion would be deemed to have been automatically terminated. While fixing pay in the revised scales, such promotions given after 31st December, 1995 will not be taken into consideration. If such promotions have been given after 31st December, 1995 then the question of adjustment of such additional emoluments obtained in the process, will be decided after the Fitment Committee submits its recommendations on promotion policy. Promotion to any vacancy of a post identified as need based post would be admissible. The procedure for identification of such need based posts has been set out in paragraph 12."

5. From bare perusal of the aforesaid paragraph, it is clear that any time bound promotion given to the employees prior to January, 1996 shall not be affected by the subsequent resolution of the Government.

6. As noticed above, admittedly the petitioners were given time bound promotion in 1991 and 1993 and they were placed in the pay scale of Rs. 800-1150/. In my opinion, therefore, they are entitled to the revised pay scale of Rs. 2610-3540/. The action of the respondents therefore, in fixing the pay scale of the petitioners at Rs. 2550-3200/- is arbitrary and without any basis.

7. For the aforesaid reason, this writ application is allowed and the impugned order of fixation of the petitioners" pay is set aside. It is directed that the petitioners shall be entitled to the pay scale of Rs. 2610-3540/-.