

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Date of Decision : 8th September, 2010

+ **WP(C) 15492-93/2004**

THE BAILIFFS AMNIS ASSOCIATION ...Petitioner
Through : Mr.Sandeep Sethi, Senior Advocate
Mr.Nikhil Bhalla and Mr.Sindhu Sinha,
Advocates.

Versus

GNCT OF DELHI & ORS. ...Respondents
Through: Mr.V.K.Tandon, Advocate.

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE MOOL CHAND GARG

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

PRADEEP NANDRAJOG, J. (Oral)

1. Petitioner No.1 is an association of Bailiffs/Amins in the Union Territory of Delhi. Petitioner No.2 is a Bailiff. They are before us because their claim of parity of pay with Patwaris has been negated by the Tribunal vide impugned

order dated 16.4.2004 and OA No.2147/2003 filed by them has been dismissed.

2. Briefly noted the grievance of the petitioners arose out of Rule 75(5) of Delhi Land Reforms Rules, 1954 which directs that the post of bailiff is to be treated as Central Civil Service, Class IV post for all purposes.

3. The grievance of the petitioners was that the nature of their duties is akin to that of a Patwari and not any of the class IV post. It was highlighted that the cadre of Bailiffs and Patwaris was created in the year 1931 when pay scale of Bailiffs was Rs.35-1.50-40-1-50-2-60 and that of Patwaris was Rs.35-1-50. Later on the pay scale of Patwaris was enhanced and brought at par with that of Bailiffs and injustice was done to the Bailiffs in the year 1952 when pay scale of Patwaris was upgraded to Rs.85-2-120 while that of Bailiffs was fixed at Rs.80-1-85-2-95-3-110. Subsequently the pay scale of Patwaris was enhanced to Rs.260-350 but that of Bailiffs was enhanced to Rs.210-270. This distinction continued as and when Pay Commission recommended the revised pay scales. It was stated that the disparity continued and the gap widened as and when the recommendations of the Pay Commissions were implemented. As per the petitioners in the State of Uttar Pradesh and Andhra Pradesh Bailiffs are being paid salary in the same pay scale as the Patwaris. Further, petitioners claim that their department has conceded that the work of Patwaris and Bailiffs is near identical. In any case, petitioners urge that their work is much more onerous than Class IV employees i.e. Sweepers, Peons, Mazdoors, Helpers, Chowkidars, Malis and Unskilled workers.

4. As per the respondents Patwaris and Bailiffs cannot be equated. It has been highlighted that the

educational qualifications of Patwaris as per the recruitment rules are higher. The nature and duties of Patwaris and Bailiffs have been highlighted to show the difference.

5. The duties of Bailiffs flow out of the Delhi Land Reforms Rules, 1954. We note the same with reference to the rule applicable:-

“Rule 75. Direct collection by bailiffs and their appointment (Section 132) – (1) Direct collection shall be made by bailiffs, each of whom shall be required to collect Rs.72,000.00 per annum.

(2) On receipt of the demand register the Tehsildar shall divide the tehsil into bailiffs circles. The demand in each circle will be approximately equal to the amount that can be collected by one bailiff in 3 months in accordance with the standard laid down in sub-rule (1). But the Deputy Commissioner may vary the size of a bailiff circle according to local condition.

(3) Bailiffs shall be appointed in accordance with the Recruitment Rules framed by the Lt.Governor from time to time. The Deputy Commissioner may, however, appoint all or any of the Patwaris as co-officio bailiffs.

(4) xxxx

[(5) The post of bailiff shall be treated as Central Civil Service, class IV post for all purpose.]

(5) The Deputy Commissioner may reduce the pay of a bailiff temporarily by way of punishment if he finds that the bailiff has failed to collect the amount allotted to him owing to inefficiency or negligence but if even after a period of one month the bailiff does not improve, the Deputy Commissioner shall discharge him.

Rule 79. Receipts – For every amount collected by the bailiff a receipt shall be given to the payer in L.R. Form 22.

Rule 81. The method of filling in receipts – (1)

Before giving a receipt to the payer the bailiff shall fill columns 1 to 8 and sign in column 9 both on the counterfoil 'A' and on the receipt 'B' of L.R. Form 22. Column 10 i.e. the progressive total of the counterfoil shall also be filled in.

(2) The coupon 'C' shall not be filled in by the bailiff. The receipt and coupon shall both be given to the payer and the counterfoil shall be retained by the bailiff.

Rule 82. Register of collections – The bailiff shall maintain a register of daily collection in L.R. Form 23 in which the entries shall be made as and when the amounts are collected.

Rule 83. Daily cross checking by the plaintiff –

At the close of every day the bailiff with the help of counterfoils in L.R. Form 22 and of his register of daily collections fill up entries in columns 11 to 15 of L.R. Form 19. The entries made in column 13 of L.R. Form 19, shall be totalled daily and shall be compared with the difference between the figures in column 10 of the counterfoil in L.R. Form 22 made on that day and those made at the end of the previous days. The aggregate of all the entries in column 13 of L.R. Form 19 for all the villages in his circle shall be compared daily with the column of entries in column 5 of L.R. Form 23.

Rule 86. Bailiff to take verification of deposits at Tehsil -

On the visit of the bailiff to Tehsil, which shall be at least twice a month, the Tehsildar shall inform him of the amounts collected at the tehsil, since the last visit of the bailiff. The bailiff shall make necessary entries in column 13 to 15 of the statement in L.R. Form 19 mentioning in the remarks column that the amount has been collected at the Tehsil. He shall leave columns 11 and 12 blank and shall mention in the remarks column the number and date of the Challan by which the amount has been deposited.

Rule 87. The maximum amount which a bailiff can keep in his possession – The bailiff shall not keep in his possession at one time an amount exceeding Rs.1,500.

Rule 88. Annual totalling by the bailiff – On the 31st March and 30th of September, each year, the bailiff shall total the entries in columns 13, 14 and 15 of L.R. Form 19 and shall transmit to the Tehsildar a consolidated statement for his circle in L.R. Form 24.

Rule 95. Bailiff to assist the Gaon Panchayat – The bailiff of the village shall assist the Gaon Panchayat in issuing receipts of the sums collected and in the maintenance of the prescribed registers and records.”

6. A perusal of the above rules show that the duty of bailiffs is to collect land revenue on behalf of the Government from the circles or areas allotted to them in this regard; to issue receipts to the payers for the amounts so collected; to maintain a record of the collections made by them in a register, to daily cross-check the amount collected with the counter-foils and to regularly deposit the collections with the Tehsildar. Further, Bailiffs have to assist the Gaon Panchayat in issuing receipts of the sums collected by the Gaon Panchayat and in the maintenance of the prescribed registers and records.

7. We may note that not only land revenue is collected as conventionally understood but there are various statutes in Delhi where recoveries are made as arrears of land revenue. Under the Delhi Development Authority Act 1957, under the Delhi Municipal Corporation Act 1957, under the Delhi Financial Corporation Act, under the Delhi State Industrial Development Corporation Act, recoveries of

dues are effected as arrears of land revenue and for which powers of arrest and recovery are conferred upon the Bailiffs working in the Revenue Department of the Government of NCT of Delhi.

8. We need not reflect upon the parity between Bailiffs and Patwaris for the reason learned counsel for the petitioners concede that so divergent are the duties of the two posts that it would be impossible to compare and contrast the two. But, one thing is sure. Not only have the Bailiffs to issue receipts while collecting the revenue but they have to maintain registers containing a reflection of the accounts maintained by them. The job involves the onerous responsibility of not only receiving money but even accounting for the same. To some extent the paper work done by Bailiffs matches the paper work done by Patwaris. The class IV employees render only physical services and no more. Thus, it is writ apparent that Bailiffs cannot be equated with class IV employees and certainly perform more onerous, qualitative and quantitative, job vis-a-vis class IV employees and thus would be entitled to wages more than class IV employees.

9. But how much more, has to be decided by the Competent Authority as said decision would be within the domain of the Executive.

10. Thus, we dispose of the petition holding that Rule 75(5) of the Delhi Land Reforms Rules 1954 is arbitrary and unconstitutional insofar it directs that the post of Bailiff shall be treated as Central Civil Service, Class IV Post for all intents and purpose. We issue a direction to the respondents to treat Bailiffs above Central Civil Service Class IV Employees and determine the pay scale in which Bailiffs have to be placed, which needless to state would be

higher than the pay scale of Central Civil Service Class IV Employee.

11. No costs.

CM No.11270/2004

Dismissed as infructuous.

(PRADEEP NANDRAJOG)
JUDGE

(MOOL CHAND GARG)
JUDGE

SEPTEMBER 08, 2010
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