

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 1222 of 2015

1. Dinesh Prasad Dubey S/o Late Shri Ramkamal Dubey Aged About 45 years Working On The Post Of Wireless Operator, Presently Posted At Honhat Range, Forest Division, Koriya, Baikunthpur, Resident Of Honhat Range Office, Tahsil , P.S. Sonhat, District Koriya, Baikunthpur (Chhattisgarh)
2. Heeramani Tiwari S/o Bansbahor Tiwari Aged About 50 Years Working On The Post Of Wireless Operator, Presently Posted At Honhat Range, Forest Division, Koriya, Baikunthpur, Resident Of Honhat Range Office, Tahsil , P.S. Sonhat, District Koriya, Baikunthpur (Chhattisgarh)
3. Ramnaresh Sahu S/o Sukhai Ram Sahu Aged About 48 Years Working On The Post Of Wireless Operator At Koriya Forest Division, Resident Of Village Manpur, Post Mahora, Police Station Patna, District Baikunthpur Koriya (Chhattisgarh)
4. Devendra Kumar Singh S/o Shri Ramnath Singh Aged About 43 Years Working On The Post Of Wireless Operator, Jashpur Forest Division, Resident Of Khajanchitoli, Forest Colony, P.S. Jashpur, District Jashpur (Chhattisgarh)
5. Surendra Nath Singh S/o Late Shri Lekhan Singh Aged About 48 Years Working On The Post Of Wireless Operator, Forest Division, Jashpur, Resident Of Range Office, Tapkara, Post Tapkara, Tahsil Farsabahr, Police Station Tapkara, District Jashpur (Chhattisgarh) Tapkara, Post Tapkara, Tahsil Farsabahr, Police Station Tapkara, District Jashpur (Chhattisgarh)
6. Narendra Kumar Jha S/o Chatmeshwar Jha Aged About 41 Years Working On The Post Of Wireless Operator, Forest Division Jashpur, Resident Of Forest Colony, Khajanchitoli, Tahsil And Police Station Jashpur, District Jashpur (Chhattisgarh)
7. Mithlesh Verma S/o Rampyare Verma Aged About 40 Years Working On The Post Of Wireless Operator, Forest Sub-Division Office, Kunkuri, Resident Of Aadarsh Nagar, Kunkuri, P.O. And Police Station Kunkuri, District Jashpur (Chhattisgarh)
8. Smt. Leelawati W/o Premkumar Aged About 45 Years Working On The Post Of Wireless Operator, Kunkuri Range, Resident Of Aadarsh Nagar, Kunkuri, Police Station Kunkuri, District Jashpur (Chhattisgarh)
9. Premkumar Sharma S/o Late Kartikram Sharma Aged About 40 Years Working On The Post Of Wireless Operator, Forest Division, Surajpur, Permanent Resident Of Forest Colony, Godhanpur, P.S. Ambikapur, District Surguja (Chhattisgarh)

10. Sudhir Sinha S/o Late Shri Suresh Prasad Sinha Aged About 47 Years Working On The Post Of Wireless Operator, Forest Division, Surajpur, Permanent Resident Of Jodapipal, Near Water Tank, Ambikapur, Police Station Ambikapur, District Surguja (Chhattisgarh)
11. Md. Rauf Khan S/o Md. Ibrahim Khan Aged About 46 Years Working On The Post Of Wireless Operator, Forest Division, Surajpur, Permanent Resident Of Imlipara, Ward No. 35, Ambikapur, Police Station Ambikapur, District Surguja (Chhattisgarh)
12. Shyamkaran Dubey S/o Chitrangad Dubey Aged About 47 Years Working On The Post Of Wireless Operator, Forest Range, Raghunath Nagar, District Balrampur (Chhattisgarh) Permanent Resident Of Village Rameshpur, Post Office Raghunath Nagar, Tahsil, P.S. Wadrafnagar, District Balrampur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through: The Secretary, Forest Department, Mahanadi Bhawan, Capital Complex, Naya Raipur, Post Office Rakhi, District Raipur (Chhattisgarh)
2. Principal Chief Conservator Of Forest, Raipur, District Raipur (Chhattisgarh)
3. Chief Conservator Of Forest, Raipur, District Raipur (Chhattisgarh)
4. Conservator Of Forest, Jagdalpur Circle, Jagdalpur, District Bastar (Chhattisgarh)

---- Respondent

And

WPS No. 2574 Of 2013

1. Mansukh Lal Tiwari S/o Lt. Bhagwandeem Tiwari Aged About 52 years Working On The Post Of Wireless Operator, Div. Forest Officer, General Forest Div. Dhamtari, R/o Vaishnavi Villa. Near Goura Chabutara, Gourav Path (Ama Talab Colony), Ramsagarpara, Dhamtari, Post Office & P.S. Dhamtari, Tahsil & Distt. Dhamtari C.G.

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Forest Department Mantralaya Mahanadi Bhawan, Naya Raipur Distt. Raipur C.G.

2. Chief Conservator Of Forest (Administration), Raipur, District Raipur C.G.
3. Conservator Of Forest Raipur Circle, Raipur, District Raipur C.G.
4. Divisional Forest Officer Dhamtari Forest Division, Dhamtari, District Dhamtari C.G.

---- Respondent

And

WPS No. 2575 Of 2013

1. Shambhu Nath Jha S/o Devendra Jha Aged About 38 years Working On The Post Of Wireless Operator, Div. Forest Office, Forest Div. Dantewada, R/o Qtr. No.B/4, Forest Colony, Near Division Office Aurabhatha, Dantewada, Post Office & Police Station Dantewada, Tahsil & Distt. Dantewada Cg

---- Petitioner

Vs

1. State Of Chhattisgarh Through The Secretary, Forest Department Mantralaya, Mahanadi Bhawan, Naya Raipur District Raipur C.G.
2. Chief Conservator Of Forest (Administration) C.G Raipur District Raipur C.G
3. Conservator Of Forest Jagdalpur Circle, Jagdalpur, Distt Jagdalpur C.G.
4. Divisional Forest Officer Dantewada Forest Division Dantewada, District Dantewada Cg.

---- Respondent

And

WPS No. 1286 Of 2015

1. Saiyyad Shahid S/o Late Saiyyad Latif Aged About 47 years Working On The Post Of Wireless Operator, In The Office Of Divisional Forest Officer, Bastar Forest Division, District Bastar (Chhattisgarh) Permanent Resident Of - C/o Machkot Van Parisar, Geedam Road, In Front Of Suri Hotel, P.S. Jagdalpur, District Bastar (Chhattisgarh)
2. Shrikant Sharma S/o Late Ramnarayan Prasad Upadhyay Aged About 44 Years Working On The Post Of Wireless Operator, In The Office Of Divisional Forest Officer, Bastar Forest Division, Jagdalpur,district Bastar (Chhattisgarh) Permanent Resident Of -Government Aara Mill,

Kevramunda, Jagdalpur, P.S.; Post Jagdalpur,district Bastar (Chhattisgarh)

3. Sheikh Nizammuddin S/o Sheikh Fakhurddin Aged About 48 Years Working On The Post Of Wireless Operator, In The Office Of Divisional Forest Officer, Bastar Forest Division, District Bastar (Chhattisgarh) Permanent Resident Of - Rahman Gali, Veersavarkar Ward, Pathraguda, P.S. Jagdalpur, District Bastar (Chhattisgarh)
4. Lalit Kumar Thakur S/o Late Chaturbhuj Thakur Aged About 48 Years Working On The Post Of Wireless Operator, In The Office Of Forest Divisional Officer, Bastar Forest Division, Jagdalpur, District Bastar (Chhattisgarh), Present Resident Of Village And Post Titirgaon, Dharampura, P.S.; Jagdalpur, District Bastar (Chhattisgarh)
5. Doodhraj Sahu S/o Shri Ramsay Sahu Aged About 45 Years Working On The Post Of Wireless Operator, In The Office Of Divisional Forest Officer, Bastar Forest Division, District Bastar (Chhattisgarh), Permanent Resident Of - Village And Post Dube Umargaon, P.S., Tahsil Bastar, District Bastar (Chhattisgarh)
6. Gajanand Thakur S/o Baliyar Singh Thakur Aged About 40 Years Working On The Post Of Wireless Operator, In The Office Of Divisional Forest Officer, Bastar Forest Division, District Bastar (Chhattisgarh), Permanent Resident Of - Village And Post Dongam, Post Jagdalpur, Police Station Parpa, Tahsil Jagdalpur, District Bastar (Chhattisgarh)
7. Kushal Prasad Pandey S/o Shri Partheshwar Prasad Pandey Aged About 46 Years Working On The Post Of Wireless Operator, South Kondagaon, Forest Division Kondagaon, Amrawati Range, District Kondagaon (Chhattisgarh), Permanent Resident Of - Forest Colony, Kondagaon, P.S., House No.19- Fd, District Kondagaon (Chhattisgarh)
8. Smt. Meeta Agrawal W/o Shri Manoj Agrawal Aged About 50 Years Working On The Post Of Wireless Operator, South Kondagaon, Forest Division Kondagaon, District Kondagaon (Chhattisgarh) Permanent Resident Of- Bhewapadar Para, Tahsil Kondagaon, District Kondagaon (Chhattisgarh)
9. Bittulal Digrase S/o Late Heeraji Digrase Aged About 56 Years Working On The Post Of Wireless Operator, South Kondagaon, Forest Division, Kondagaon, Amrawati Range, District Kondagaon (Chhattisgarh), Permanent Resident Of - Village Chipavand, Tahsil, P.S.; Kondagaon, District Kondagaon (Chhattisgarh)
10. Mahesh Nayak S/o Late Shri Chaituram Aged About 46 Years Working On The Post Of Wireless Operator, South Kondagaon, Forest Division Kondagaon, Narangi Range, District Kondagaon (Chhattisgarh), Permanent Resident Of - Village And Post Vishrampuri, Tahsil, P.S. Vishrampuri, District Kondagaon(Chhattisgarh)

11. Rakesh Kumar Shrivastava S/o Shri R.K. Shrivastava Aged About 49 Years Working On The Post Of Wireless Operator, South Kondagaon, Forest Division Kondagaon, District Kondagaon (Chhattisgarh), Permanent Resident Of - Sargipal Para, Tahsil ,p.S. And District Kondagaon(Chhattisgarh)
12. Sirjoram Sethiya S/o Laxman Sethiya Aged About 53 Years Working On The Post Of Wireless Operator, Forest Division, Keshkal Farasgaon (General) Range, District Kondagaon (Chhattisgarh), Permanent Resident Of - Village Farasgaon, P.S., Tahsil Farasgaon, District Kondagaon(Chhattisgarh)

---- Petitioner

Vs

1. State Of Chhattisgarh Through : The Secretary, Forest Department, Mahanadi Bhawan, Capital Complex, Naya Raipur, Post Office Rakhi, District Raipur (Chhattisgarh)
2. Principal Chief Conservator Of Forest, Raipur, District Raipur (Chhattisgarh)
3. Chief Conservator Of Forest, Raipur, District Raipur (Chhattisgarh)

---- Respondent

And

WPS No. 1289 Of 2015

1. Jahiruddin S/o Mujibuddin Aged About 49 years Working On The Post Of Wireless Operator, Gariyaband Forest Division, Gariyaband, Permanent Resident Of Near Baba Provision Store, Raja Talab, Jai Hind Chowk, P.S. Raipur, District Raipur (Chhattisgarh)
2. Smt. Adlina David W/o Shri Kamal Kumar David Aged About 53 Years Working On The Post Of Wireless Operator, Gariyaband Forest Division, Gariyaband, Permanent Resident Of Quarter No. 7-B , Cross Street Sector-1, Bhilai, Police Station Bhilai, District Durg (Chhattisgarh)
3. Gopa Bhattacharya S/o Ashok Kumar Bhattacharya Aged About 50 Years Working On The Post Of Wireless Operator, Chief Conservator Of Forest, Wild Life Raipur, Permanent Resident Of 11/179 W.R.S. Colony, Shrinagar, Raipur, Police Station Raipur, District Raipur (Chhattisgarh)
4. Yuvraj Nirmalkar S/o Late Shri Ramcharan Nirmalkar Aged About 46 Years Working On The Post Wireless Operator, Raipur Forest Division, Raipur, Permanent Resident Of Village Baronda, Post Office, Bangoli, P.S. District Raipur (Chhattisgarh)

5. Shatrughan Lal Jaiswal S/o Late Shri Hariram Jaiswal Aged About 57 Years Working On The Post Of Wireless Operator, Bhilaigarh Range, Permanent Resident Of Nagar Panchayat, Bilaigarh, Tahsil And Post Office Bilaigarh, Police Station Bilaigarh, District Balodabazar-Bhatapara (Chhattisgarh)
6. Ramprabhat Verma S/o Dukaluram Aged About 51 Years Working On The Post Of Wireless Operator, Raipur Forest Division, Raipur, Permanent Resident Of New Anand Nagar, Sendwar Talab, Bhanpuri, Raipur, Police Station Raipur, District Raipur (Chhattisgarh)
7. Likhanlal Rahagdale S/o Late Daulatram Rahangdale Aged About 52 Years Working On The Post Of Wireless Operator, Fingeshwar Range, Gariyaband Forest Division, Permanent Resident Of Kali Nagar, Near Mata Garrage, In Front Of Police Chowk, Pandri, Police Station Raipur, District Raipur (Chhattisgarh)
8. Laxman Parasad Nishad S/o Shri Ghurau Ram Nishad Aged About 50 Years Working On The Post Of Wireless Operator, Range Office, Barnayapara Century, Permanent Resident Of Village Barnayapara, Post Office Barnayapara, District P.S. Balodabazar- Bhatapara (Chhattisgarh)
9. Gendram Sahu S/o Shri Birsing Ram Sahu Aged About 47 Years Working On The Post Of Wireless Operator, Raipur Range, Forest Division, Raipur, Present Resident Of Raja Talab Raipur, Police Station Raipur, District Raipur (Chhattisgarh)
10. Avdhesh Sharma S/o Late Shri Channulal Sharma Aged About 51 Years Working On The Post Of Wireless Operator, Range Sona Khan, Kasdol, Forest Division Balodabazar, Permanent Resident Of Village Chandrakhuri, Post Office Chandrakhuri, Police Station Mandir Hasaud, District Raipur (Chhattisgarh)
11. Rajeshwar Prasad Jaiswal S/o Shri Kanhaiyalal Jaiswal Aged About 52 Years Working On The Post Of Wireless Operator, Range Bilaigarh, Forest Division, Balodabazar, Permanent Resident Of Bilaigarh Bus Stand, Police Station Bilaigarh, District Balodabazar- Bhatapara (Chhattisgarh)
12. Ghenuram Nagesh S/o Late Sudarshan Nagesh Aged About 50 Years Working On The Post Of Wireless Operator, forest Range, Mainpur, Forest Division Gariyaband, Permanent Resident Of Forest Colony, Mainpur, Post Office, Mainpur, Tahsil And Police Station Mainpur, District Gariyaband (Chhattisgarh)
13. Ashok Kumar Sharma S/o Shri Ram Prasad Sharma Aged About 47 Years Working On The Post Of Wireless Operator, Achankmar Range, Tiger Reserve, Koni Bilaspur, Permanent Resident Of Kargi Road, Kota, Padavpara Bajrang Chowk, Kota, Police Station Kota, District Bilaspur (Chhattisgarh)

14. Omprakash Verma S/o Balmiki Prasad Verma Aged About 49 Years Working On The Post Of Wireless Operator, Bilaspur Forest Division, Bilaspur Permanent Resident Of Sarkanda, Imlibhata, Near Vidya Aata Chakki, P.S. Bilaspur, Post Office, Bilaspur (Chhattisgarh)

---- **Petitioner**

Vs

1. State Of Chhattisgarh Through : The Secretary, Forest Department, Mahanadi Bhawan, Capital Complex, Naya Raipur, Post Office Rakhi, District Raipur (Chhattisgarh)
2. Principal Chief Conservator Of Forest, Raipur, District Raipur (Chhattisgarh)
3. Chief Conservator Of Forest, Raipur, District Raipur (Chhattisgarh)
4. Conservator Of Forest, Jagdalpur Circle, Jagdalpur, District Bastar (Chhattisgarh)

---- **Respondent**

For Petitioners	Shri V.K. Pandey, Advocate
For Respondent/State	Shri Y.S. Thakur, Dy. Adv. General

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

09/07/2015

Heard learned counsel for the parties.

1. Petitioners are working as Wireless Operators in the Department of Forest. They have prayed for a direction to the respondents to grant them the pay scale of Rs.5000-8000, on the ground that the said scale is the correct pay scale of wireless operators in terms of the order passed by the unified State of Madhya Pradesh on 12-3-1999.
2. It appears the petitioners were working as daily wage Wireless Operators for sufficient length of time, therefore, on the strength of the

State Government's circular dated 5-3-2008, their services have been regularized. At the time of regularization of their services the State Government fixed them in the pay scale of Rs.3050-4590 and subsequently, by order dated 29-7-2008 the pay scale was approved with the concurrence of the Finance Department.

3. Shri Pandey, learned counsel appearing for the petitioners, would submit that as per the circular dated 12-3-1999 the proper pay scale for the post of Wireless Operator was Rs.5000-8000 and in the report of Brahma Swaroop Committee, which has been accepted by the State of Chhattisgarh on 11-2-2008 the pay scale of such posts which are not mentioned in Schedule I & II of the circular would remain unchanged, therefore, petitioners' are entitled for the pay scale of Rs.5000-8000, however, despite that their pay scale has been fixed at Rs.3050-4590.
4. On the other hand, Shri Thakur, learned Dy. Advocate General appearing for the State, would submit that since the post of Wireless Operator was declared as dying cadre in the circular dated 12-3-1999 no such post existed in the State of Chhattisgarh, however, some daily wagers were working on the post prior to creation of State of Chhattisgarh, therefore, in order to regularize them pursuant to the State Government's circular dated 5-3-2008 the State decided to sanction supernumerary posts by the name wireless operator and the pay scale of such post has been fixed at Rs.3050-4590. Shri Thakur would further submit that there is no illegality in fixing a particular pay scale to a post, which is a supernumerary post and not a post in the regular set up.

5. A bare perusal of the papers annexed with the writ petitions would indicate that in the order of regularization also, the petitioners were regularized in the pay scale of Rs.3050-4590 and the said pay scale was accepted by the petitioners without any demur. It further appears, although regularization orders were issued, but the posts in the name of Wireless Operators were not available in the department, therefore, to remove any discrepancy in the matter for release of pay scale through Treasury the State Government issued an order on 29-7-2008 fixing the pay scale of Wireless Operators i.e. Rs.3050-4590 by approving the post of Wireless Operator as supernumerary post.
6. The submission that since in the report of Brahma Swaroop Committee it was mentioned that the post not covered in Schedule I & II would carry the unchanged pay scale would not apply to the petitioners because the said report or circular of the State Government would apply to the posts which are in the regular set up, however, the post of Wireless Operator was declared as a dying cadre and supernumerary post has been created only to accommodate and regularize the petitioners.
7. It is the settled law that grant of pay scale to a particular post is an expert job, which should be looked into by the experts and not by the Courts.
8. The Supreme Court in **Union of India through Secretary, Department of Personnel, Public Grievances and Pensions and Another v. T.V.L.N. Mallikarjuna Rao**¹, held thus :

¹ (2015) 3 SCC 653

“26. The classification of posts and determination of pay structure comes within the exclusive domain of the executive and the Tribunal cannot sit in appeal over the wisdom of the executive in prescribing certain pay structure and grade in a particular service. There may be more grades than one in a particular service.”

9. For the foregoing, this Court does not find any substance in the present batch of writ petitions. Accordingly, all the writ petitions are dismissed. However, the petitioners would be at liberty to raise the issue at the time of further revision of pay scales and the concerned authority will consider and decide the same, in accordance with law and on its own merits, without being influenced by any of the observations made by this Court in the preceding paragraphs of this order.
10. There shall be no order as to costs.

Judge

Prashant Kumar Mishra

Gowri