

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3180 of 2014

1. J.L. Sidar S/o Rambharos Aged About 53 Years Working On The Post Of Principal, Govt. Girls Higher Secondary School Sitapur, Distt Surguja, R/o Sitapur, Ps Sitapur, Dist Surguja, Cg
2. C.R.Miri S/o Maniram Miri Aged About 54 Years Working On The Post Of Principal, Govt. Boys Higher Secondary School Batouli, Distt Surguja, R/o Batouli, Ps Batouli, Distt Surguja, Cg
3. R.N.Gahirwar S/o D. Gahirwar Aged About 59 Years Working On The Post Of Principal, Govt. Higher Secondary School Gopalpur, Distt Balrampur-Ramanujganj, R/o Gopalpur, Ps Gopalpur, Distt Balrampur-Ramanujganj, Cg
4. Smt. Sushila Minj W/o Leos Minj Aged About 51 Years Working On The Post Of Principal Govt. Higher Secondary School Bariyon, Distt Balrampur-Ramanujganj, R/o Bariyon, Ps Bariyohn, Distt Balrampur-Ramanujganj, Cg
5. Smt. Pushpa Xalxo W/o B.S.Xalxo Aged About 49 Years Working On The Post Of Principal Govt. Higher Secondary School Bhatgaon, Dist Surajpur, R/o Bhatgaon, Ps Bhatgaon, Distt Surajpur, Cg
6. Smt. Merry M.Ekka W/o Prabhuprakash Ekka Aged About 52 Years Working On The Post Of Principal, Govt. Higher Secondary School Songara, Distt Surajpur, R/o Songara, Ps Bhatgaon, Dist Surajpur, Cg

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Development, Mantralaya, Mahanadi Bhawan, Capital Complex, Naya Raipur, Post Office Rakhi, Distt Raipur, Cg
2. Under Secretary, Department Of Tribal Development, Mantralaya, State Of C.G., Mahanadi Bhawan, Naya Raipur, Dist Raipur, Cg
3. The Commissioner (Tribal Development Department), Raipur, Dist Raipur, Cg
4. The Assistant Commissioner Tribal Development, Ambikapur, Dist Surguja, Cg

---- Respondents

And

WPS No. 3524 Of 2015

- R. P. Sharma S/o Late Shri R. K. Sharma, Aged About 77 Years R/o Kedarpur, Behind Of Dr. C. D. Pathak Ambikapur, Tahsil And Police Station Ambikapur, Civil & Revenue, District - Surguja, C. G.

---- Petitioner

Vs

1. State Of Chhattisgarh Through Secretary Tribal Welfare Department Mantralaya Capital Complex, Mahanadi Bhawan Naya Raipur, District - Raipur (C. G.)
2. Commissioner, Tribal Welfare Chhattisgarh, Raipur, District - Raipur (C. G.)
3. Assistant Commissioner, Tribal Welfare Suruguja, District Suruguja C. G.
4. Collector (Tribal Welfare) Ambikapur, District Suruguja C. G.

---- Respondent

And

WPS No. 3531 Of 2015

- S. K. Singh S/o Late Shri H. N. Singh, Aged About 71 Years R/o In - Front Of Mahesawer Mandir, Basundhara - Vihar Road, Godhanpur, Tahsil & Police Station - Ambikapur, Civil & Revenue, District - Surguja, C. G.

---- Petitioner

Vs

1. State Of Chhattisgarh Through Secretary Tribal Welfare Department Mantralaya Capital Complex, Mahanadi Bhawan Naya Raipur, District - Raipur (C. G.)
2. Commissioner, Tribal Welfare Chhattisgarh, Raipur, District - Raipur (C. G.)
3. Assistant Commissioner, Tribal Welfare Suruguja, District Suruguja C. G.
4. Collector (Tribal Welfare) Ambikapur, District Suruguja C. G.

---- Respondents

For Petitioners	Shri V.K. Pandey, Advocate and Shri A.K. Yadav, Advocate
For Respondent/State	Shri Bhaskar Payasi, PL

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board By

08/10/2015

1. In WPS No.3180/2015, the petitioners have prayed for direction to the respondents to grant pay scale of Rs.2375-4125/- with all consequential benefits as also to set aside the impugned order dated 2.5.2014.

2. In WPS No.3524/2015, the petitioner has prayed for similar relief as also to consider his case in the light of order passed by this Court in **Dr. R.N. Mishra Vs. State of CG & Ors** {WPS No.3136/2010}.
3. In WPS No.3531/2015, the petitioner has prayed for similar relief as has been prayed in WPS No.3524/2015.
4. The above relief has been claimed on the ground that their cases are similar to the one decided by the MP High Court in WP Nos.7211/2003, 7425/2003, 7210/2003 and 6235/2003.
5. It is argued that based on the orders passed by the MP High Court in the above referred writ petitions, this Court has also granted similar orders in WPS No.7224/2008 and five other writ petitions, decided by a common order dated 8-3-2013 and WPS No.1943/2015, decided on 2-7-2015.
6. Petitioners before the MP High Court were promoted on 30-7-1990 in the pay scale of 2375-4125/-. By order dated 19-3-1991, the said pay scale was withdrawn on the ground that the said petitioners are, in fact, entitled for the pay scale of Rs.2000-3500/- and the pay scale of Rs.2375-4125/- was wrongly mentioned on account of typographical error.
7. The petitioners have placed reliance on the orders passed by the MP High Court, based on which this Court passed a similar order on 8-3-2013 in **Suresh Kumar Joshi and others Vs. State of Chhattisgarh and another** and other connected matters. This Court perused the record of Suresh Kumar Joshi (*supra*). In the said writ petition, the order passed by the MP High Court in **Bhagwandas Tapadia Vs. State of M.P. & others** (WP No.6235/2003, decided on 03.02.2005) has been filed as Annexure P-5. In the said matter, the MP High Court held thus in para 6 & 7:-

“6. From the material available on the record, it is clear that prior to 12.06.1992 in the Tribal Welfare Department, there was no post of Principal, High School. The post of Principal, High School was introduced for the first time by amending the M.P. Tribal,

Harijan and Backward Class Welfare (Gazetted) Service Recruitment Rules 1969. The amendment was first published in the M.P. Rajpatra on 12.6.1992 and the same has been filed as Annexure R/2 along with the return. Thus, it is clear that when the petitioner was promoted, there was no post of principal, High School as the amendment was subsequent to the promotion order issued in favour of the petitioner. It is thus, clear that when the promotion order was issued it was rightly mentioned that the petitioner was being promoted as Principal, Higher Secondary School because at that point of time there was no post of principal, High School as is also clear from the communication dated 29.4.2002 (Annexure A/7) filed by the petitioner.

(Emphasis supplied)

7. In view of the aforesaid, order dated 1.05.1991 is unsustainable in law and is accordingly hereby quashed. Learned counsel for the petitioner submitted that petitioner continued to draw salary in the pay-scale of Rs.2375-4125 till September, 1995 and thereafter he was getting reduced salary in the pay-scale of Rs.2000-3500. Since it has been held that petitioner was entitled to get the salary in the pay-scale of Rs.2375-4125, respondents are hereby directed to work out the arrears of pay to petitioner within a period of three months. In case if the petitioners in the connected cases have retired, then the respondents shall not only work out the arrears of pay but also issue revised pension payment-cum-DCRG order. Let the whole exercise be done within a period of three months from the date of communication of the certified copy of the order, failing which the entire arrears of amount shall carry interest at the rate of nine percent. In view of the foregoing discussion, writ petition is allowed. Impugned order is hereby set aside. There shall be no orders as to costs.

Let a copy of this order be placed in the record of connected writ petitions.”

8. Concededly, present petitioners except Shri R.P. Sharma (WPS No.3524/2015) have been promoted as Principal High School after 12-6-1992 when the MP Tribal, Harijan and Backward Class Welfare (Gazetted) Service Recruitment Rules, 1969 was amended and the post of Principal High School in the department of Tribal Welfare was sanctioned in the pay scale of Rs.2000-3500/-. Admittedly, all the petitioners except Shri R.P. Sharma (WPS No.3524/2015) have been appointed after the said date i.e. 12-6-1992 and there was clear mention in their promotion order that they are appointed on the pay scale of 2000-3500/-, case of the petitioners are thus clearly distinguishable. They were never appointed/promoted by mentioning pay scale of Rs.2375-4125/-. In so far as the petitioner Shri R.P. Sharma (WPS No.3524/2015) is concerned, although he was promoted on

04.01.1992, however, in his promotion order also, pay scale of 2000-3500/- is mentioned and he was never promoted on the pay scale of 2375-4125/-. Thus, even if he was promoted prior to 12.06.1992, he is not entitled for the pay scale of 2375-4125/-, because the said pay scale was not mentioned in his promotion order.

9. In absence of any independent claim that on the basis of some government order the petitioners are in fact entitled to the pay scale of Rs.2375-4125/-, the petitioners are not entitled for the said pay scale. As a matter of fact, since the petitioners are only claiming parity and their relief is not claimed on the basis of any statutory provisions or any government order, there is no pleading or supporting document in this regard.
10. Even otherwise, the writ petitions suffer from delay and laches, as the petitioners were promoted long back, more than 15 years, and the writ petitions are filed after inordinate delay.
11. For the above said reasons, the writ petitions are dismissed.

Sd/-

JUDGE

PRASHANT KUMAR MISHRA