

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7664 of 1996

1. Mohd. Salimullah, S/o Late Md. Karimullah, resident of Zaheda Manzil, Saad Pura, a PS- Kuazi Mohammadpur, District- Muzaffarpur, at present posted as Translator, S.D.O. Office, East, Muzaffarpur.
2. Naushad Ahmad, S/o Md. Sajjad Ahmad, resident of Nadra Ganj, Ram Sagar Road, Gaya, PS- Gaya, District- Gaya. At present posted as Translator, Bochaha Block, Muzaffarpur.
3. Wali Ahmad, S/o Late Mir Hadi Hasan, resident of Village- Shahpur Junaid, PS- Sakra, District- Muzaffarpur, at present posted as Translator, Kanti Block, Muzaffarpur.
4. Md. Jalilur Rahaman Quasmi, S/o Late Md. Qasim Siddiquie, resident of Mohalla- Jail Road, PS- Muzaffarpur, District- Muzaffarpur, at present posted as Translator, Minapur Block, Muzaffarpur.
5. Md. Naseer, S/o Late Abdul Sattar, resident of Ghous Nagar, PS- Ghous Nagar, District- Sitamarhi, at present posted as Translator, Aurai Block, Muzaffarpur.
6. Bilquse Begum, W/o Syed Quisar Hussain, resident of Saadpura, PS- Kazi Mohammadpur, District- Muzaffarpur, at present posted as Translator, S.D.O. Office, West Muzaffarpur.
7. Shakir Ahmad Khan, S/o Md. Usman Kha, resident of B. Patti, PS- Sahebganj, District- Muzaffarpur, at present posted as Translator, Mushahri Block, Muzaffarpur.
8. Md. Isa Anwar, S/o Md. Ayoub, resident of Mohalla- Saadpura, PO- Ramna, PS- Quazi Mohammadpur, District- Muzaffarpur, at present posted as Translator, Kudhni Block, Muzaffarpur.
9. Md. Jalaluddin Khan, S/o Md. Jaseem Khan, resident of Mohalla- Raipura Pathai Toli, PS- Fatwah, PO- Fatwah, District- Patna at present posted as Saraiya Block, Muzaffarpur.
10. Md. Abul Hasan Ansari, S/o Md. Shamshuddin Ansari, resident of Village- Haraiyadih, PO- Baisadih, PS- Piro, District- Bhojpur, at present posted as Translator, Kalyanpur Block, East Champaran.
11. Md. Abdul Bari Shaida, S/o Late Shamsuddin, resident of Chajjoo Mohalla, PS- Bihar Sarif, District- Nalanda, at present posted as Translator, Kesaria Block, East Champaran.
12. Md. Serajuddin Khan, S/o Late Md. A.S. Khan, resident of Mohalla- Beli Sarai, PS- Motihari, District- East Champaran, at present posted as Translator, Sikrahna Sub-Division, East Champaran.
13. Fazle Ali Naseem, S/o Late Md. Hashim, resident of Banars Bank Chowk, PS- Muzaffarpur Town, District- Muzaffarpur, at present posted as Translator, Collectorate, Motihari, East Champaran.
14. Imteyaz Ahmad, S/o Md. Abulais, resident of Village- Chandauli, PO- Belaganj, District- Gaya, at present posted as Translator, S.D.O. Office, Gaya Sadar, Gaya.
15. M. Mahfooz Rahmani, S/o M.A. Kabiri, resident of Villae- Chewara, PS- Chewara, District- Shaikhpura, at present posted as Translator, S.D.O. Office, Sadar Patna, Patna.
16. Shah Waliullah Tarique, S/o Late Syed Shah Azmatullah, resident of Chandwara, PS- Muzaffarpur Town, District- Muzaffarpur, at present posted as Assistant Translator, Bochaha Block, Muzaffarpur.
17. Md. Irfanul Haque, S/o Reyazul Haque, resident of Barhampura, District-



Muzaffarpur, at present posted as Assistant Translator, Shakra Block, Muzaffarpur.

18. Shah Nawaz Jabeen, W/o Latifur Rahman, resident of Mohalla- Sarai Sayed Ali, PS- Quazi Mohammadpur, District- Muzaffarpur, at present posted as Assistant Translator, Collectorate, Muzaffarpur.
19. S. Mujtaba Hasan, S/o Late S. Murtaza Hasan, resident of Sultanganj, PS- Sultanganj, District- Patna, at present posted as Assistant Translator, Kanti Block, Muzaffarpur.
20. Md. Shabbir Ahmad, S/o Abdul Jabbar Hussain, resident of Village- Kasma, P.S.- Chandauti, District- Gaya, at present posted as Assistant Translator, Minapur Block, Muzaffarpur.
21. Ateeque Askari, S/o Ramzan Ali, resident of Baradih, PS- Kesariya, District- East Champaran, at present posted as Assistant Translator, Kudhni Block, Muzaffarpur.
22. Moinuddin Ahmad, S/o Wasiuddin Ahmad, resident of Village- Manse Chapra, P.S.- Bhuwan Chapra, PS- Chakia, District- East Champaran, at present posted as Assistant Translator, Chakia Block, East Champaran.
23. Md. Zikrullah, S/o Imdad Elahi, resident of Village- Meghua, PO- Bahlohpur, PS- Kalyanpur, District- East Champaran, at present posted as Assistant Translator, Kesaria Block, East Champaran.
24. Syed Tyab Reza, S/o Syed Ali, Ghazanfar, resident of Village- Gopalpur, PS- Hussainganj, PS- Bakarganj, District- Siwan, at present posted as Assistant Translator, Sadar Sub-Division, Motihari, East Champaran.
25. Naiyar Alam Siddiquee, S/o Mahmood Alam Siddiquee, resident of Village Parshottampur, P.S. _Chauradano, District- East Champaran, at present posted as Assistant Translator, Motihari Block, East Champaran.
26. Qutubuddin, S/o Syed Zamiruddin, resident of Kaghzi Mohallah, PO and PS- Bihar Sarif, District- Nalanda, at present posted as Assistant Translator, Jalley Block, District- Darbhanga.
27. S.S. Qaisar Rizvi, S/o S.S. Serajuddin Rizvi, resident of Mohalla- Shahtoli, PO- Danapur, PS- Danapur, District- Patna, at present posted as Assistant Translator, Phulwari Sharif Block, Patna.

.... Petitioner/s

Versus

1. The State of Bihar, through its Chief Secretary, Old Secretariat Building, Patna.
2. The Finance Commissioner –cum- Secretary to Govt. in the Department of Finance, Old Secretariat Building, Patna.
3. The Pay Revision Anomaly Committee through its Chairman, Sri K.P. Sinha the retired I.A.S., C/o Finance Commissioner –cum- Secretary to Govt., Old Secretariat Building, Patna.
4. The Secretary to Government in the Raj Bhasha Department, Old Secretariat Campus, Patna.
5. The Director, Raj Bhasha, Old Secretariat Campus, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhinav Srivastava, Adv.
Mr. Ujjwal Bhushan, Adv.
Mr. Raushan, Adv.

For the Respondent/s : Mr. Anjani Kumar, AAG-4
Mr. Deepak Sahay Jamuar, AC to AAG-4



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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL JUDGMENT
Date: 22-02-2018

The petitioners while questioning the legality of the recommendation of the Pay Revision Anomaly Committee (hereinafter referred to as the 'Anomaly Committee') in so far as it recommends the revised pay-scale for the petitioners which, according to the them, stands reduced than the scale recommended by the Fifth Pay Revision Committee –cum- Fitment Committee, have alongside prayed for a direction to the State to reconsider the grievance of the petitioners in terms of the recommendation made by the Fifth Pay Revision –cum- Fitment Committee.

This writ petition was admitted for hearing vide order passed on 15.9.1997. The writ petition was heard by a coordinate Bench of this Court and was dismissed vide order passed on 2.11.2010. Feeling aggrieved the petitioners filed LPA No.672 of 2014 which was allowed vide judgment and order passed on 26.9.2016 and the matter was remitted back for fresh consideration and disposal. It is thereafter that the matter is listed before this Court when the parties have been heard.

The facts leading to the writ petition briefly stated is that following an advertisement published on 18.8.1981 for appointment of 294 Translators that these petitioners applied. While the



petitioner nos.1 to 15 were appointed against the post of Translator which carried a pay-scale of Rs.296-460/-, the petitioner nos.16 to 27 were appointed as Assistant Translators in the pay-scale of Rs.260-408/- in the Rajbhasha Department. The appointment order does reflect that these scales granted were pre-revised and the matter regarding grant of replacement scale was pending with the State Government.

A decision was taken by the Finance Department as reflected from its letter dated 14.11.1983 to grant a revised scale of Rs.580-860/- to the Translators while the Assistant Translators were given a replacement scale of Rs.535-765/-. According to the petitioners, this decision was in the teeth of the recommendation made by the Fourth Pay Revision Committee in connection with the replacement scale of Translators in the Agriculture Department, a copy of which is placed at Annexure 5 to the writ petition which recommended a pay-scale of Rs.785-1210/- to the Translators in the Agriculture Department who were also in the existing scale of Rs.296-460/-.

The petitioners represented for revision of pay-scales in tune with such recommendation. According to the petitioners, the Pay Revision Committee considering the claim of Translators in the Rajbhasha Department recommended the scale of Rs.680-965/- for



the Assistant Translators and Rs.730-1080/- for the Translators. While the matter remained pending that the Fifth Pay Revision Committee recommended for a revised scale and according where to a replacement scale of Rs.1400-2300/- was recommended for the Translators and the scale of Assistant Translators was revised to Rs.1320-2040/-.

The grievance of the petitioners is that even though such was the recommendation of the Fitment Committee, the Pay Anomaly Removal Committee which was constituted to remove the anomaly interfered therewith to reduce the scale of the petitioners. According to the Pay Anomaly Committee, the Assistant Translators were given the replacement of Rs.1200-1800/- (pre-revised Rs.580-860/-) while the Translators were to be given the replacement of Rs.1320-2040/- (pre-revised Rs.680-965/-).

Representations were filed on behalf of the Translators and since nothing was forthcoming that some of them came before this Court in **CWJC No.1757 of 1994 (Md. Mojahidul Islam & Ors. Vs. The State of Bihar)**. A coordinate Bench of this Court taking note of the submission of the State Counsel that the matter was pending consideration before the State Government, disposed of the writ petition accordingly. It is



thereafter that the Finance Department has come out with the resolution dated 14.11.1995, whereby the pay-scale of the Assistant Translators has been revised from Rs.975-1540 to Rs.1200-1800/- and in so far as Translators are concerned their scales have been revised from Rs.1200-1800/- to Rs.1320-2040/-. It is feeling aggrieved by this decision that the petitioners are before this Court.

I have heard Mr. Abhinav Srivastava, learned counsel appearing for the petitioners and Mr. Anjani Kumar, learned Additional Advocate General No.4 assisted by Mr. Deepak Sahay Jamuar for the State.

The main plank of argument of Mr. Srivastava rests on the Fitment Committee- cum- Pay Revision Committee's recommendation which recommended the scale of Rs.680-965/- for the Assistant Translators and Rs.730-1080/- for the Translators. According to Mr. Srivastava, the Pay Anomaly Committee had no business to interfere with such recommendations to recommend lower pay-scale for these petitioners as manifest from Annexure-8. It is also the argument of Mr. Srivastava that the petitioners cannot be discriminated and if the Finance Department has accepted the higher pay-scale as claimed by these petitioners for Translators in other department of the State Government, the same has to be



accorded to these petitioners as well. In support, learned counsel has referred to the Fourth Pay Revision Committee's recommendation at Annexure-5 to submit that although the Translators in the Agriculture Department were granted a replacement scale of Rs.785-1210/- as against their existing pay-scale of Rs.296-460/-, the petitioners have been given a replacement scale of Rs.680-965/- and not even Rs.730-1080/-. He submits that the issues were noted by this Court in the earlier round of litigation in the case of **Md. Mojahidul Islam** (supra) and the Bench allowed the respondents to take a final decision thereon which in no way has improved the situation for the petitioners.

According to Mr. Srivastava, the recommendation of the Fitment –cum- Pay Revision Committee at Annexure7 was taking note of the circumstances existing together with the qualification attached to the post which has been misread by the Pay Anomaly Committee.

The argument of Mr. Srivastava has been contested by the Additional Advocate General No.4 who has simply relied upon the opinion of the Bench in the case of **Md. Mojahidul Islam** (supra) to submit that the argument advanced has been taken note in the order at Annexure 10 and has been rejected by the Bench. He submits that the rejection of the pay parity claim was never



appealed against by the Translators rather it is on the information given by the State Counsel that the matter of revision of pay-scale for Urdu Translators was pending with the State Government that the writ petition was disposed of. It is submitted that the matter was considered by the Finance Department and has resulted in the order at Annexure 11.

The counter affidavit filed on behalf of the Rajbhasha Department and Finance Department exhaustively deals with the matter to conclude that the claim of the petitioners advanced individually as well as through their Association were examined by the Finance Department in the light of the recommendation of the Fitment Committee as well as the Pay Anomaly Committee and when the scales as present in Annexure 11 were upheld and extended to all employees of the State Government.

As I have observed hereinabove, the sheet-anchor for the petitioners is the Fitment Committee's recommendation at Annexure 7. Even though a case of discrimination was advanced by Mr. Srivastava in reference to the Translators in other department but the details in the pleading is lacking. On the contrary it is the specific case of the Finance Department that the scales allotted to the petitioners have been equally applied to the other employees in the State Government as confirmed from the statement at paragraph



11 of the Counter affidavit of the Finance Department.

Grant of pay-scale and creation of posts are issues involving financial implication and are best left within the domain of the executive until such time that any form of patent discrimination is made out by the persons complaining. Such is not the case here. At least the pleadings do not reflect any such discrimination. Be it a recommendation of the Fitment Committee or the Pay Anomaly Committee they continue to remain recommendation but the final decision thereon has to be taken by the department concerned which in the present case would be the Finance Department.

The Finance Department has in their affidavit, very extensively dealt with the issue to conclude in the order dated 14.11.1995 whereby the pay-scales of the Translators (Urdu) and Assistant Translators (Urdu) has been fixed at Rs.1320-2040/- and Rs.1200-1800/- respectively after taking note of the Fitment Committee's recommendation as well as the Pay Anomaly Committee's recommendation. In my opinion, once the department vested with the responsibility of taking a decision on the pay-scale of its employees has concluded on a particular scale which in no manner either seems discriminatory or in deviation of the recommendations except that it is not strictly in tune with the same,



a mere second opinion thereon would not render such fixation perverse or arbitrary. The legal positions stand well settled and such issues are best left within the domain of the Executive for the Courts are not equipped nor to take a decision thereon should sit in appeal over such decisions taken by Expert Committees.

The writ petition is dismissed.

(Jyoti Saran, J)

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AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	07-03-2018
Transmission Date	NA

