

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1756 of 2017**

1. Amardas Pawar S/o Late Shri Anup Singh Pawar Aged About 52 Years Working As Junior Accounts Officer, O/o Director, Schedule Caste Research & Training Institute, Raipur, District Raipur (CG)
2. Jagat Mishra S/o Shri Ram Lochan Mishra Aged About 58 Years Working As Junior Accounts Officer, O/o Assistant Commissioner Tribal Development, Bilaspur, District Bilaspur (CG)
3. D.S. Netam S/o Mansingh Netam Aged About 54 Years Working As Junior Accounts Officer, O/o Assistant Commissioner, Tribal Development , Kanker, District North Bastar, (CG).
4. Radhekrishna Sahu S/o Late Shri Nanaksharan Aged About 56 Years Working As Junior Accounts Officer, O/o Assistant Commissioner, Tribal Development Korla, District Korla (CG)
5. Janik Rao Moriya S/o Late Shri Yashwant Rao Aged About 58 Years Working As Junior Accounts Officer, O/o Assistant Commissioner, Tribal Development, Korla, District Korla (CG)
6. R.L. Maitri S/o Shri Punni Ram Maitri Aged About 57 Years Working As Junior Accounts Officer, O/o Assistant Commissioner Tribal Development, Korba, District Korba (CG)
7. J.L. Rajak S/o Late Shri B.L. Rajak Aged About 58 Years Working As Junior Accounts Officer, O/o Assistant Commissioner Tribal Development, Bilaspur, District Bilaspur (CG)
8. Ram Singh Maravi S/o Late Shri Sukhram Maravi Aged About 59 Years Junior Accounts Officer, O/o Government Gurukul School, Pendra Raod, District Bilaspur (CG)
9. Smt. Amrita Ekka W/o Shri Alexander Tigga Aged About 43 Years Working As Junior Accounts Officer, O/o The Commissioner, Scheduled Tribe & Scheduled Caste Development, Raipur, District Raipur (CG)
10. Gnaneshwar Bansod S/o Late Shri Namdev Bansod Aged About 54 Years Working As Junior Accounts Officer, O/o The Commissioner, Scheduled Tribe And Scheduled Caste Development, Raipur, District Raipur (CG)
11. Chandrahas Uike S/o Shri Radhelal Uike Aged About 54 Years Working As Junior Accounts Officer, O/o Assistant Commissioner, Tribal Development, Raipur, District Raipur (CG)
12. Arvind Khalkho S/o Shri Francis Khalkho Aged About 56 Years

Working As Junior Accounts Officer, O/o The Commissioner, Scheduled Tribe And Scheduled Caste Development, Raipur, District Raipur (CG)

13. Mehtar Ram Markam S/o Late Shri Mansingh Markam Aged About 61 Years Working As Junior Accounts Officer, O/o Assistant Commissioner, Tribal Development, Dantewada, District Dantewada (CG)
14. P.P. Datta Gupta S/o Late B.P. Datta Gupta Aged About 58 Years Working As Junior Accounts Officer, O/o Assistant Commissioner, Tribal Development, Janjgir Champa, District Janjgir (CG)
15. K.L. Pandey S/o P.D. Pandey Aged About 59 Years Working As Junior Accounts Officer, O/o Assistant Commissioner, Tribal Development, Janjgir-Champa, District Janjgir (CG)

---- **Petitioners**

Versus

1. State Of Chhattisgarh Through The Secretary, Schedule Caste and Scheduled Tribe Development Department, Mantralaya Mahanadi Bhawan, Naya Raipur (CG)
2. Secretary, General Administration Department, Mantralaya, Mahanadi Bhawan, Naya Raipur (CG)
3. Commissioner, Schedule Caste and Scheduled Tribe Development Department, Indrawati Bhawan, Naya Raipur (CG)

---- **Respondents**

For Petitioners	:	Mr. Amrito Das, Advocate
For Respondents	:	Mr. Gagan Tiwari, Dy. Govt. Advocate.

Hon'ble Shri P. R. Ramchandra Menon, CJ
Hon'ble Shri Parth Prateem Sahu, J

Order On Board

P.R. Ramchandra Menon, CJ

2/8/2019

1. The petitioners, who are working as 'Junior Accounts Officers' in the Scheduled Caste & Scheduled Tribe Development Department and were previously governed by the 'Chhattisgarh Scheduled Caste, Scheduled Tribe and Other Backward Classes

Development Department Subordinate Class III Ministerial Service Recruitment Rules, 1993' (for short 'the Rules of 1993'), are before this Court with the following prayers:-

“10.1 This Hon'ble Court may kindly be pleased to call for the entire records concerning the fixation of pay scale of Junior Accounts Officer.

10.2. This Hon'ble Court may kindly be pleased to issue an appropriate writs declaring that the pay-scale provided to the Junior Accounts Officer in Column 5 at Serial No.3 of Schedule -I of Chhattisgarh Schedule Tribe & Schedule Caste Development Department, Subordinate (Class-III Ministerial) Service Recruitment Rules, 2013 is arbitrary and *ultra vires*.

10.3 This Hon'ble Court may kindly be pleased to issue and appropriate writ declaring that Sl.No.A(1) contained under Scheduled IV of the Rules, 2013, wherein Junior Accounts Officers posted in the Directorate Office of the department are promoted to Assistant Superintendent is arbitrary and *ultra vires*.

10.4 This Hon'ble Court may kindly be pleased to pass appropriate writ directing respondent no.1 to grant pay parity to the petitioners by granting Grade Pay of Rs.4200/- in Pay Band 2.

10.5 This Hon'ble Court may kindly be pleased to issue an appropriate writ quashing and setting aside the order dated 07.03.2017 (Annexure P/2).

10.6 Any other relief, which this Hon'ble Court may deem fit and proper, in the facts and circumstance of the case.”

2. It is pointed out that under the Rules of 1993 the petitioners were appointed and promoted to the post of 'Accountant' and were entitled to be promoted to the post of 'Superintendent' on gaining experience of three years. By the passage of time, a Committee by name 'Brahm Swaroop Committee' came to be constituted to deal with various service conditions and such other relevant aspects. The said Committee submitted its recommendations to the Government; pursuant to which the same was directed to be implemented by the Government as per proceedings dated

11.2.2008. It is stated that the Rules of 1993 came to be amended in the said circumstance as per the "Chhattisgarh Scheduled Caste & Scheduled Tribes Development Department Subordinate (Class -III Ministerial) Service Recruitment Rules, 2013 (henceforth 'the Rules of 2013'), which virtually tilted the balance, as contended by the petitioners. As some serious anomalies happened to be crept in, the same was sought to be rectified by way of several representations. The representations came to be considered, but it was rejected as per order Annexure P-2 dated 7.3.2017. This made the petitioners to approach this Court by filing writ petition with the prayers as aforesaid, challenging the vires of the Rules of 2013 and also claiming for such other benefits.

3. Respondents have filed their version / return dated 1.11.2018 producing some of the relevant materials as Annexure R-1 to R-4.
4. On going through the materials on record, it is seen that the petitioners are actually aggrieved by the pay-scale provided to the 'Junior Accounts Officers' who are working in the Scheduled Caste & Scheduled Tribe Development Department. To sustain the prayers, they have challenged the vires of the Rules of 2013 as well. Since the representations preferred by the petitioner stand rejected, the order rejecting representations is also put to challenge. As a matter of fact, the petitioners have prayed for a declaration of the pay-scale provided to the post of 'Accountant' in the Column No.5 at Sr. No.3 of the Rules of 2013 to be ultra

vires, simultaneously praying to quash the order dated 7.3.2017, as mentioned above and to direct the respondent No.1 to grant pay parity by granting Grade Pay of Rs.4200/- on par with that of the Assistant Superintendent. It is also the case of the petitioners that the Rules under challenge have virtually reduced the promotion chances of the petitioners, who are qualified and that there is a chance for unqualified/untrained persons to get a march over and occupy the higher slots, detrimental to the rights and interests of the petitioners.

5. Going by the version put forth by the State in the return filed before this Court, it is stated that the matter was considered by the respondents and they got convinced as to the disparity. In the said circumstance, the 3rd respondent herein proposed an amendment to the Rules of 2013, which is stated as made, pursuant to the order dated 19.7.2008 passed in WPS No.3110/2015 as well as contents of writ petition bearing WPS No.1837/2017 and the present case (WPS No.1756/17). It is stated by learned State Counsel that WPS No.1837/2017 was subsequently got disposed off in the light of the verdict already passed in WPS No.3110/2015. A copy of the proposal dated 20.3.2018 along with proposed amendment to the Schedule IV has been produced as Annexure R-1.
6. With reference to the above 'proposed amendment' in the Schedule mentioned above, it is pointed out by the learned Government Counsel that the post of 'Accountant' (accounts trained) and the 'Assistant Grade III' (accounts trained) have

been brought on par with each other and that this has been done on the basis of recommendation of the Brahma Swaroop Committee. It is stated that, this amendment, once brought about, will settle the grievance of the petitioners. To avoid repetition and to have clarity and convenience, we find it appropriate to extract Para-4 of the return, as given below:-

“4. That, a perusal of the proposed amendment in Schedule IV mentioned above would show that the post of Accountants (Accounts Trained) & Assistant Grade II (Accounts Trained) have been brought at par with each other. This has been done on the basis of the recommendation of the Brahma Swaroop Committee wherein the post of accountant has been recommended to be the part of / same as Assistant Grade II. This amendment will address grievance of the petitioners as Accounts [Accounts Trained] / Assistant Grade II [Accounts Trained] will be at par with Assistant Grade II non-trained and on promotion, the Accountants [Accounts Trained] / Assistant Grade II [Accounts Trained] will be posted as Junior Account Officer in the pay scale of Rs. 5200-20200, Grade Pay Rs. 2800/-. Whereas the similarly placed Assistant Grade II non trained on promotion will be posted as Assistant Grade 1 in the same pay scale as mentioned above. Thus, as a result of this amendment, the grievance of the petitioners will be redressed. It is pertinent to mention here that, the amendment is with respect to both the office of the Head of the Department as well as the Field Office/ Subordinate Office. It is further pertinent to mention here that, the Accountants [Accounts Trained] / Assistant Grade II [Accounts Trained] will be promoted to the post of Junior Account Officer and the seniority list of the Accountants [Accounts Trained] / Assistant Grade II [Accounts Trained] will be a common seniority list and in this seniority list, Accountants [Accounts Trained] will be senior to the Assistant Grade II [Accounts Trained]. Similar will be the situation in the subordinate officers as well. This fact is clear from the Remarks under the proposed amendment of Schedule IV. It is submitted that, the Accountant / Assistant Grade II after promotion would become Junior Account Officer in the pay scale of Rs. 5200-20200, Grade Pay Rs. 2800 and the petitioners/Junior Accountant Officer after 5 years of

experience will be next promoted to Superintendent at the pay scale of Rs.9300-3800 Grade Pay Rs.4300. Thus, after the amendment, the Junior Account Officer would not require two promotions to reach the post of Office Superintendent and the Junior Account Officers who will be at par with Assistant Grade II in the non trained channel would be directly promoted to the post of Office Superintendent. The flow chart of the career growth in the present Rules of 2013 for both the Head Office as well as Subordinate Office is annexed as ANNEXURE R-2. The flow chart of career growth as per the proposed amendment in the Rules of 2013 for both Head Office as well as the subordinate office is annexed as ANNEXURE R-3.”

7. It has been stated in Para-5 of the return that the proposal of the Commissioner has been forwarded by the 1st respondent to the 2nd respondent, as per Annexure R-4 dated 24.10.2018, simultaneously adding that the 1st respondent has already approved the proposal for amendment and the same now stands forwarded to the General Administration Department (GAD) i.e. the 2nd respondent. It is accordingly stated that the proposed amendment, once notified, would settle the dispute/grievance of the petitioners once and for all.
8. In the above circumstances, this Court is of the view that no adjudicatory exercise needs to be pursued in this matter, but for causing the proposal for amendment to be finalized within a specified time. Accordingly, the 2nd respondent-General Administration Department, Raipur is directed to finalize the proposal forming part of Annexure R-4 with proper application of mind, as expeditiously as possible, at any rate within 'three months' from the date of receipt of certified copy of this judgment. The amendment so finalized shall be notified by the respondents

in the Official Gazette in the manner as prescribed and in conformity with the law, within a further period of one month thereafter.

9. It is made clear that, if the petitioners feel to be aggrieved in any manner because of the amendment so finalized and notified, it shall always be open for them to approach this Court by way of appropriate proceeding, in respect of any subsisting grievance.

10. The writ petition stands disposed off accordingly.

Sd/-
(P.R. Ramchandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-