

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.92 of 2018

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1. Krishnadeo Das and Ors Son of late Mahadeo Das Resident of Mohalla-Saidpur Khatal Gali, P.O. Bankipur, P.S.- Kadamkuan, District and Town-Patna.
 2. Hardeo Roy S/o late Sheonandan Roy R/o Mohalla- MIG-306, Kankarbagh Colony, P.O. Lohia Nagar, P.S. -Kankarbagh , Distt. Patna-20
 3. Ram Bachan Ram S/o late Ram Deo Ram R/o Mohalla- Ashok Nagar, Road No. 8/A, P.O.- Lohianagar, P.S. Kankarbagh, Distt. Patna-20

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Home Police Deptt. , Govt of Bihar, Patna.
3. The Director, Prosecution, Bihar, Patna.
4. The Principal Secretary, Finance Deptt. Govt. of Bihar, Patna.
5. The Accountant General of Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Madan Prasad Singh No-2
For the Respondent/s : Mr. Md. N. H. Khan-Sc1

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 23-09-2022

Heard learned counsel for the petitioners and
learned State counsel.

2. The petitioners seek quashing of the letter dated 13.10.1998 whereby and whereunder the Home (Police) Department has sanctioned posts in Junior Selection Grade, Senior Selection Grade and Supertime Scale for Assistant Public Prosecutors (APPs).

3. It is submitted by petitioners' counsel that the petitioners are entitled to Junior Selection Grade, Senior



Selection Grade and Supertime Scale, attached to the pay scale of Rs. 2400-4000. The pay fixation, therefore, determined by the impugned order 13.10.1998, is erroneous and unsustainable. It is contrary to the report of the Pay Anomaly Committee dated 08.02.1996, pursuant to the 5th Pay Revision Committee report dated 18.10.1989.

4. In terms of the report of the Pay Anomaly Committee, petitioners claim Junior Selection Grade in the scale of Rs. 3000-45000, Senior Selection Grade in the scale of Rs. 3700-5000 and Supertime Scale in the scale of Rs. 4100-5300. It is submitted that the petitioners are entitled to the above noted scale in terms of the judgment dated 30.06.1997 passed in **CWJC No. 11703 of 1992** in the case of *Murlidhar Iswar & Ors. vs. The State of Bihar & Ors.*

5. Learned State counsel, on the other hand, raises a preliminary objection regarding the writ petition being barred by delay and laches. Having said so, it is stated that the Pay Anomaly Committee had not made any specific recommendation for APP in respect of pay scale for Junior Selection Grade-APP, Senior Selection Grade-APP or Supertime Scale-APP. The Government has fixed these three scales under communication dated 20.09.1997 bearing No. 10192



(Annexure-A to the counter-affidavit). The said determination has never been assailed by the petitioners. Judgment in the case of *Murlidhar Iswar* (supra), relied upon by the petitioners' counsel, does not direct for grant of Junior Selection Grade, Senior Selection Grade or Supertime Scale attached to the pay scale of Rs. 2400-4000, instead of Rs. 2200-4000 to APP. The three scales claimed by the petitioners are in fact attached to the pay scale of Rs. 2400-4000, whereas the basic scale of petitioners-APPs is Rs. 2200-4000.

6. Having considered the rival submissions, this Court would find that the petitioners are seeking to assail, the sanction of posts in Junior Selection Grade, Senior Selection Grade and Supertime Scale under letter dated 13.10.1998, by filing a writ petition in the year 2018, i.e., after 20 years. They have never challenged the determination of pay scale benefits in these three grades as per communication dated 20.09.1997. It is also not the case of the petitioners that Junior Selection Grade, Senior Selection Grade and Supertime Scale in the scales of Rs. 3000-4500, Rs. 3700-5000 and Rs. 4100-5300, have been paid to anyone till date.

7. The petitioners have not disputed or denied the stand of the respondent in the counter-affidavit with respect to



their entitlement based on letter dated 20.09.1997. They are also not in a position to point out that any other specific scale in Junior Selection Grade, Senior Selection Grade or Supertime Scale was recommended by the Pay Anomaly Committee for the post of APP.

8. The stand of the respondents in the counter-affidavit as regards petitioners' entitlement in respect of these three grades has also not been denied or disputed by filing any affidavit.

9. The learned counsel for the petitioner has vehemently argued that the fixation of scale under the impugned letter dated 13.10.1998 is wrong and unsustainable. This Court would find that letter dated 13.10.1998 is not a letter regarding pay fixation. By this communication, number of post falling in Junior Selection Grade, Senior Selection Grade and Supertime scale was sanctioned.

10. In fact pay fixation in Junior Selection Grade, Senior Selection Grade and Supertime Scale had already been prescribed under letter dated 20.09.1997 bearing number 10192 (Annexure-A) issued by the Home (Police) Department in compliance with the decision of this Court in the case of ***Murlidhar Ishwar*** (supra) as follows:



	<u>Posts</u>	<u>Pay Scale</u>
1	Assistant Public Prosecutor (Basic Grade)	2200-4000
2	Junior Selection Grade, Asst. Public Prosecutor	2400-4150
3	Senior Selection Grade, Asst. Public Prosecutor	3000-4500
4	Supertime Selection Grade, Asst. Public Prosecutor	3700-5000

This fixation has never been assailed by the petitioners till date.

11. The facts and circumstances of the case noted above, after due consideration of the records and submissions of the parties, this Court would observe that the writ petition is misconceived. This Court does not find any merit in the writ application necessitating interference with the impugned letter dated 13.10.1998 or for grant of any positive directions in favour of the petitioners.

12. Writ application is dismissed.

(Madhuresh Prasad, J)

SUMIT/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	23.09.2022
Transmission Date	NA

