

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 6404 of 2014

Niranjan Kumar

..... Petitioner

Versus

1. The State of Jharkhand through the Chief Secretary, Government of Jharkhand, having office at Project Bhavan, P.O. & P.S. Dhurva, District-Ranchi.
2. The Principal Secretary, Department of Finance, Government of Jharkhand, having office at Project Bhavan, P.O. & P.S.-Dhurva, District-Ranchi.
3. The Principal Secretary, Department of Personnel, Administrative Reforms & Rajbhasha, Government of Jharkhand, having office at Project Bhavan, P.O & P.S.-Dhurva, District-Ranchi.
4. The Principal Secretary, Law (Justice) Department, Government of Jharkhand, having office at Project Bhavan, P.O. & P.S.-Dhurva, District-Ranchi.
5. The Registrar General, Jharkhand High Court at Ranchi, P.O. & P.S.-Doranda, District-Ranchi.
6. The Registrar Establishment, Jharkhand High Court at Ranchi, P.O. & P.S.-Doranda, District-Ranchi.
7. The Member Secretary, Jharkhand State Legal Services Authority, Ranchi, having office at Nyaya Sadan, P.O. & P.S.-Doranda, District-Ranchi.
8. The Secretary, High Court Legal Services Committee, Ranchi having office at Nyaya Sadan, P.O. & P.S. Doranda, Town and District-Ranchi. Respondents

With

W.P.(S) No. 6406 of 2014

Roshan Lal

..... Petitioner

Versus

1. The State of Jharkhand through the Chief Secretary, Government of Jharkhand, Project Bhawan, P.O.-Project Bhavan P.S. Dhurva, District-Ranchi.
2. The Principal Secretary, Department of Finance, Government of Jharkhand, Project Bhawan P.O.-Project Bhavan P.S. Dhurva, District-Ranchi.
3. The Principal Secretary, Department of Personnel, Administrative Reforms & Rajbhasha, Government of Jharkhand, Project Bhavan, P.O.-Project Bhavan P.S. Dhurva, District-Ranchi.

4. The Law Secretary, Government of Jharkhand, Project Bhavan, P.O.-Project Bhavan P.S. Dhurva, District-Ranchi.
5. The Registrar General, Jharkhand High Court at Ranchi, P.O. & P.S.-Doranda, District-Ranchi.
6. The Registrar Establishment, Jharkhand High Court at Ranchi, P.O. & P.S.-Doranda, District-Ranchi.
7. The Member Secretary, Jharkhand State Legal Services Authority, Ranchi, P.O. & P.S.-Doranda, District-Ranchi.

..... Respondents

With

W.P.(S) No. 6435 of 2014

Ravindra Lal Sahu

..... Petitioner

Versus

1. The State of Jharkhand through the Chief Secretary, Government of Jharkhand, Project Bhavan, P.O.-Project Bhavan P.S. Dhurva, District-Ranchi.
2. The Principal Secretary, Department of Finance, Government of Jharkhand, Project Bhavan P.O.-Project Bhavan P.S. Dhurva, District-Ranchi.
3. The Principal Secretary, Department of Personnel, Administrative Reforms & Rajbhasha, Government of Jharkhand, Project Bhavan, P.O.-Project Bhavan P.S. Dhurva, District-Ranchi.
4. The Law Secretary, Government of Jharkhand, Project Bhavan, P.O.-Project Bhavan P.S. Dhurva, District-Ranchi.
5. The Registrar General, Jharkhand High Court at Ranchi, P.O. & P.S.-Doranda, District-Ranchi.
6. The Registrar Establishment, Jharkhand High Court at Ranchi, P.O. & P.S.-Doranda, District-Ranchi.
7. The Member Secretary, Jharkhand State Legal Services Authority, Ranchi, P.O. & P.S.-Doranda, District-Ranchi.

..... Respondents

With

W.P.(S) No. 6490 of 2014

Asha Agrawal

..... Petitioner

Versus

1. The State of Jharkhand through the Chief Secretary, Government of Jharkhand, Project Bhavan, P.O.-Project Bhavan P.S. Dhurva, District-Ranchi.

2. The Principal Secretary, Department of Finance, Government of Jharkhand, Project Bhavan P.O.-Project Bhavan P.S. Dhurwa, District-Ranchi.
 3. The Principal Secretary, Department of Personnel, Administrative Reforms & Rajbhasha, Government of Jharkhand, Project Bhavan, P.O.-Project Bhavan P.S. Dhurwa, District-Ranchi.
 4. The Law Secretary, Government of Jharkhand, Project Bhavan, P.O.-Project Bhavan P.S. Dhurwa, District-Ranchi.
 5. The Registrar General, Jharkhand High Court at Ranchi, P.O. & P.S.-Doranda, District-Ranchi.
 6. The Registrar Establishment, Jharkhand High Court at Ranchi, P.O. & P.S.-Doranda, District-Ranchi.
 7. The Member Secretary, Jharkhand State Legal Services Authority, Ranchi, P.O. & P.S.-Doranda, District-Ranchi.
- Respondents

With

W.P.(S) No. 6503 of 2014

Mukesh Singh

..... Petitioner

Versus

1. The State of Jharkhand through the Chief Secretary, Government of Jharkhand, Project Bhavan, P.O.-Project Bhavan P.S. Dhurwa, District-Ranchi.
 2. The Principal Secretary, Department of Finance, Government of Jharkhand, Project Bhavan P.O.-Project Bhavan P.S. Dhurwa, District-Ranchi.
 3. The Principal Secretary, Department of Personnel, Administrative Reforms & Rajbhasha, Government of Jharkhand, Project Bhavan, P.O.-Project Bhavan P.S. Dhurwa, District-Ranchi.
 4. The Law Secretary, Government of Jharkhand, Project Bhavan, P.O.-Project Bhavan P.S. Dhurwa, District-Ranchi.
 5. The Registrar General, Jharkhand High Court at Ranchi, P.O. & P.S.-Doranda, District-Ranchi.
 6. The Registrar Establishment, Jharkhand High Court at Ranchi, P.O. & P.S.-Doranda, District-Ranchi.
 7. The Member Secretary, Jharkhand State Legal Services Authority, Ranchi, P.O. & P.S.-Doranda, District-Ranchi.
- Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

For the Petitioners : Mr. A.K.Das, Advocate.
For the Respondents 1 to 4 : Mr. Rahul Kamlesh,
A.C. to S.C.-IV
For the Respondents 5 to 8 : Mr. S. Srivastava, Advocate

JUDGEMENT

C.A.V. On 07.01.2021 Delivered on 25/03/2021.

Heard learned counsel for the parties through V.C.

2. Since common issue is involved in all the aforesaid writ applications, as such all are being heard together and disposed of by this common judgment.

3. The writ applications have been preferred by the petitioners praying therein for following reliefs;

(I) To grant pay-scale of Rs. 6,500-200-10,500/- to the petitioner w.e.f. 15.09.2006 (notionally) and for monetary benefit w.e.f. 01.03.2007, in view of Memo no. 599/Finance dated 06.03.2007 issued by the Department of Finance, Government of Jharkhand, Ranchi as the same is being paid to the other similarly situated employees like the petitioner in the State Government or appointed before the Hon'ble Jharkhand High Court, Ranchi;

(II) To grant Grade pay of Rs. 4,600/- in view of Memo no. 2954 dated 30th October, 2010 issued by the Finance Department, Government of Jharkhand, Ranchi, w.e.f. 01.01.2006 as the same is being paid to the similarly situated

employees appointed and posted at Jharkhand Secretariat or the Hon'ble Jharkhand High Court, Ranchi;

(iii) To grant arrears of the dues along with interest owing to non-payment of pay scale of Rs.6500-200-10500/- w.e.f. 1.3.2007 and also Grade Pay of Rs. 4600/- w.e.f. 01.01.2006 along with interest and all consequential benefits.

And/or

For issuance of any other appropriate writ/order/direction to which petitioner is legally entitled for as pecuniary financial loss is caused to the petitioner.

4. The facts of the case is that on 13.02.2002 the Secretary, Department of Personnel, Administrative Reforms & Rajbhasha, Government of Jharkhand, Ranchi addressed to the Registrar General, Jharkhand High Court, Ranchi on the subject of appointment of Personal Assistants (PAs) in Jharkhand State Legal Services Authority (in short JHALSA) stating therein that there is shortage of PAs in the Joint Secretariat Cadre and appointment of PAs in JHALSA may be considered by way of deputation from the pool of PAs of Jharkhand High Court.

It further appears that vide letter dated 17.04.2002, the Law Secretary addressed to the Member Secretary, JHALSA annexing the copy of aforesaid letter dated 13.02.2002 addressed to the Registrar General, Jharkhand High Court, Ranchi requesting therein to fill up the post from the cadre of Jharkhand High Court in Class-III and Class-IV post. Thereafter, on 22.02.2002 the Jharkhand High Court issued the advertisement for appointment on the post of Personal Assistant in the pay scale of Rs. 5500-175-9000/-.

All these petitioners participated in the selection process pursuant to the said advertisement and were declared successful. It further appears that on 31.05.2002, the Registrar Establishment, Jharkhand High Court wrote a letter to the Member Secretary, JHALSA sending list of 3 selected candidates for appointment as Personal Assistant and also requested to issue appointment letters to all the selected candidates including these petitioners within three days from the date of receipt of letter. Pursuant thereto; the Member Secretary, JHALSA issued appointment letters to the petitioners as Personal Assistant under JHALSA in the pay scale of Rs. 5,500-175-9,000/.

It was further stated in the appointment letter that the candidates would be governed by the Jharkhand

Service Code and the Rules and Circulars applicable to the State Government employees.

On 19.06.2002, the Member Secretary, JHALSA placed the services of the petitioners to the Jharkhand High Court Legal Services Committee. Since then the petitioners are working as Personal Assistant in Jharkhand High Court Legal Services Committee.

5. It further appears that on 06.03.2007, pursuant to the recommendations made by the Fitment Committee, the Finance Department vide its resolution placed the Assistant of Secretariat Cadre and Personal Assistant of Joint Cadre in the scale of Rs. 6,500-200-10,500/- w.e.f. 15.09.2006 (notionally) and monetary benefits w.e.f. 01.03.2007.

On 27.04.2007, the Registrar General, Jharkhand High Court issued office order wherein pursuant to aforesaid resolution dated 06.03.2007; PAs were granted revised pay scale of Rs. 6,500-200-10,500/-. These PAs who were granted revised pay scale included the PAs who were appointed under the same advertisement as the petitioners.

On 21.05.2007, JHALSA also vide its office order revised pay scale of PAs in JHALSA including the petitioners to Rs. 6,500-200-10,500/- as per aforesaid resolution dated 06.03.2007.

6. However, on 20.06.2007, the Member Secretary, JHALSA as per order of Hon'ble Executive Chairman issued an office order cancelling the earlier office order dated 21.05.2007. Pursuant thereto; on 10.07.2007, petitioners preferred representation to the Member Secretary, JHALSA on account of non-granting of revised pay scale stating therein that the petitioners are suffering financial loss and the same will also have a bearing on their retiral benefits.

On 30.10.2010, the Finance Department vide its resolution enhanced grade pay of Assistants and PAs of Secretariat cadre from Rs. 4,200/- to Rs. 4,600/- w.e.f. 01.01.2006. However, despite the fact that petitioners were getting the same grade pay of Rs, 4,200/-; they were not granted such enhancement.

The reason for not granting the enhanced pay-scale and grade pay to the petitioners appears to be due to some confusion as to whether petitioners are employee of State Government or of the Jharkhand High Court. However, it is pertinent to mention here that persons who were appointed along with the petitioners by the Jharkhand High Court; pursuant to the aforementioned advertisement, are getting the enhanced pay-scale and grade pay.

7. Mr. A.K. Das, learned counsel for the petitioners submits that the State Government vide Annexure- 1 dated 17.04.2002 and Annexure- 1/1 dated 13.02.2002 had expressed their inability to post senior Personal Assistants and Personal Assistants from the Secretariat of JHALSA and requested for either deputing the said employees from the High Court pool or making appointments at their level.

He further submits that all the petitioners have applied for the said post pursuant to the advertisement (Annexure- 2) issued by the High Court for the post of Personal Assistant in the pay scale of Rs. 5500-175-9000/-. The petitioners were selected from the panel of the selected candidates and posted at JHALSA for the appointment to the post of Personal Assistant in the pay scale of Rs. 5500-175-9000/-. At the time of appointment, the pay-scale of the petitioners was at par with their counterparts who were appointed at High Court and the Secretariat.

He further submits that when the petitioners were appointed through the same advertisement, as were their counterparts in High Court from the same panel (Annexure 2 & 3), the questions of allowing different pay-scale to the petitioners do not arise.

8. Mr. Das further draws attention of this Court towards the affidavit filed by the Jharkhand High Court

dated 27.11.2015 which specifically mentions that the Ex-Chairman, JHALSA had proposed that the pay-scale of the Personal Assistants and Assistants of JHALSA should be at par with that of the same at High Court vide letter bearing No. 205 dated 11.5.2010 and an amendment was sought in Schedule-I at Sl. 5 & 6 of the Jharkhand State Legal Services Authority Rules, 2001 wherein the pay-scale of the Personal Assistants and Assistants of JHALSA should be at par with their counterparts in the High Court. He submits that the Hon'ble Acting Chief Justice was pleased to accord his consent to the proposal and directed the Registrar-General for making the necessary amendments. Thus, there remains no ambiguity that the petitioners were entitled to the pay-scale and allowance as that of his counterparts in the High Court.

9. He further submits that the State Government is raising objections, one or the other as would be apparent from Para 10 and 11 of their Counter-affidavit. All queries and objections raised by the Finance Department were duly replied by the High Court and the Member Secretary vide letter dated 09.08.2011. But despite thereof, the State authorities have kept the matter pending and in such circumstances, allowing the pay-scale at a lower scale than what has been allowed to the Personal Assistants and Assistants of the High Court would be discriminatory and

illegal.

10. Learned counsel further submits that during the pendency of the litigation, the State Government has brought the Jharkhand Gazette Rules, 2016 where the pay-scale of the JHALSA Personal Assistants and Assistants has been brought at par with that of the High Court. Therefore, the dispute remains to the previous period from 2007 to 2016.

11. In support of his contention, Mr. Das relied upon the judgment passed in the case of ***State of UP & Ors. Vs. Pratap Narain Chaddha & Ors reported in (2001) 9 SCC 310***, wherein the Hon'ble Supreme Court has held that though there was difference in educational qualifications but once the diploma-holders had put in 5 years of service in the grade of Rs. 1600-2660/-, they should be treated at par with the graduate lecturers of the Polytechnic with the same pay scale.

Learned counsel further relied upon the judgment passed in the case of ***R.D Gupta & Ors. Vs. Lt. Governor, Delhi Administration & Ors reported in (1987) 4 SCC 505***, wherein this case, the Supreme Court held that that the three wings of NDMC are interchangeable posts. The Hon'ble Court further held that the mere fact that the persons belong to different departments of

Government holding identical posts may not be treated differentially in the matter of their way.

12. Learned counsel for the petitioners lastly submits that in the present case, the petitioners who were appointed pursuant to the same advertisement issued by the High Court, the High Court could not have allowed a different pay-scale because the petitioners were originally posted at JHALSA. Once the petitioners were allowed the benefits of the revised pay scale vide Annexure-8, then the same benefit cannot be withdrawn.

In support of this contention learned counsel relied upon another judgment of the Hon'ble Apex Court in the case of ***Bhagwan Shukla Vs. Union of India & Ors*** reported in ***(1994) 6 SCC 154***, wherein it has been stated that if the employer has served no notice for the reduction of pay or granted no opportunity to show cause against the reduction of basic pay and the order was made behind back of the petitioners without following any procedure of law; the same is not sustainable in the eye of law.

Learned counsel concluded his argument by submitting that there has been a flagrant violation of principles of natural justice and the petitioners have suffered financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed

without putting the petitioner to notice and giving them a hearing.

13. Mr. Sudarshan Srivastava, learned counsel for the respondent-High Court submits that the Member Secretary, JHALSA has requested the High Court for amendment in Schedule- I at sl.nos. 5 & 6 of the Jharkhand State Legal Services Authority Rules, 2001, so as to bring the pay-scale of Personal Assistants and Assistants at par with PAs and Assistants of Jharkhand High Court. Thereafter, Jharkhand High Court has forwarded the said request of JHALSA with concurrence of Hon'ble the Chief Justice to the State Government.

He further submits that the Law Secretary vide his letter dated 08.07.2011 made certain queries regarding PAs of JHALSA from Jharkhand High Court, which was in turn forwarded by Jharkhand High Court to JHALSA. Pursuant thereto, JHALSA replied to the queries of State Government vide its letter dated 09.08.2011 sent to Jharkhand High Court, wherein it was clearly stated that PAs of JHALSA have been selected along with other PAs of Jharkhand High Court and appointment orders have been issued stating that they shall be guided by Rules as applicable to PAs of Jharkhand High Court.

He lastly submits that the Jharkhand High Court sent a reminder to Law Secretary vide its letter dated

20.07.2012 and also sent a letter to JHALSA stating that JHALSA must take up the matter with State Government.

14. Mr. Rahul Kamlesh, learned counsel for the respondent-State submits that the petitioners are the Personal Assistant of JHALSA appointed by the Secretary, JHALSA. As per schedule-I of the JHALSA Rules, 2001 the said authority has a separate cadre of Personal Assistants to which the petitioners belong and the petitioners do not belong to the Secretariat Personal Assistant Joint Cadre which is administered and regulated presently by Jharkhand Secretariat Stenographers Service Rules, 2011.

He further submits that the claim of the petitioners is based upon a presumption that the employees of JHALSA are at par with the employees of the State Government and Hon'ble High Court which is misconceived. He contended that the mode of appointment of employees of JHALSA and State Government is different. The Memo No. 599 dated 06.03.2007 relates to the employees of the State Government and its allied offices and not to the employees of Corporations or Authorities and since JHALSA is not an allied office of the Jharkhand Secretariat and hence, the benefit of the same does not automatically applicable to the employees of JHALSA.

Mr. Rahul Kamlesh further submits that at the time when the petitioners were appointed, the recruitment

rule for JHALSA was not framed. Now, recruitment rules for JHALSA have been framed in the year 2016 and are applicable from the date of notification/publication of the said rules. Hence, the petitioners cannot claim the benefits of the same retrospectively.

He lastly submits that the JHALSA is an Authority constituted under Jharkhand State Legal Services Authority Rules, 2001 an autonomous body having separate cadre of employees now guided by separate rules i.e. JHALSA Rules, 2016 and the petitioners' contention that they are at par with the employee of High Court is also misconceived. This fact is apparent from Annexure-A to the counter-affidavit filed by High Court, whereby, the Registrar General has been requested to obtain concurrence of Hon'ble the Chief Justice of the Jharkhand High Court for application of Jharkhand High Court Rules on the Assistants/ Personal Assistants of JHALSA; meaning thereby till date they were not at par with High Court Employees. Therefore, amendment in Rule 6 of Jharkhand State Legal Services Authority Rules, 2001 was proposed and matter was pursued with the State Government. Subsequently, in 2016 Recruitment Rules for employees of JHALSA were framed and now they are guided by this Rule.

In support of his contention learned counsel for the respondent-State relied upon the Hon'ble Division

Bench of Delhi High Court's judgment passed in case of ***Union of India & Anr. VS Association of the Employees of Indian Institute of Mass Communication (Regd.) & Ors. [W.P.(C) No. 4115/2014]*** wherein the Delhi High Court has held as under:-

“43. As mentioned in the discussion herein above, in view of this Court, the employees of ABs are not at par with the employees of Central Government and OM dated 1st May, 1987 does not automatically cover employees of ABs and where there is no concurrence of the Ministry of Finance, in that case the benefit of the GPF-cum-Pension Scheme cannot be extended to the employees of ABs in lieu of the CPF Scheme already prevailing there.....”

15. Having heard learned counsel for the parties and after going through the documents annexed and the averments made in the respective affidavits, it appears that the State Government vide letter dated 17.04.2002 and 13.02.2002 (Annexure-1 & 1/1), had expressed their inability to post senior Personal Assistants and Personal Assistants from the Secretariat to JHALSA and requested for either deputing the said employees from the High Court pool or making appointments at their level.

It also appears from the fact that petitioners have applied for the said post pursuant to the

advertisement (Annexure- 2) issued by the High Court for the post of Personal Assistant in the pay scale of Rs. 5500-175-9000/- and they were duly selected from the panel of the selected candidates and posted at JHALSA for the appointment to the post of Personal Assistant in the pay scale of Rs. 5500-175-9000.

At this stage, it is pertinent to mention here that at the time of appointment, the pay-scale of the petitioners were at par with their counterparts who were appointed at High Court and the Secretariat. It is a settled principle of law that if the pre-revised pay-scale is same then on revision, there cannot be any discrimination when the pay-scale is revised. In the instant case, when the petitioners were appointed through the same advertisement; as were their counterparts in High Court from the same panel (Annexure 2 & 3), the question of allowing different pay-scale to the petitioners do not arise.

It further appears that the affidavit filed by the Jharkhand High Court dated 27.11.2015 specifically mentions that the then Chairman JHALSA had proposed that the pay-scale of the Personal Assistants and Personal Assistants of JHALSA should be at par with that of the same at High Court and pursuant thereto; an amendment was sought in Schedule-I at Sl. 5 & 6 of the Jharkhand State Legal Services Authority Rules, 2001 in order to make

the pay-scale of the Personal Assistants and Personal Assistants of JHALSA at par with their counterparts in High Court. It also appears that the Hon'ble Acting Chief Justice has accorded his consent to the proposal and directed the Registrar-General for making the necessary amendments. Thus, there remains no ambiguity that the petitioners were entitled to the pay-scale and allowance as that of their counterparts in the High Court.

It further transpires that the objections of the State Government raised by the Finance Department were duly replied by the High Court and the Member Secretary vide letter dated 09.08.2011. But despite thereof, the State authorities have kept the matter pending for years together and finally came with the Jharkhand Gazette Rules, 2016 where the pay-scale of the JHALSA Personal Assistants and Assistants has been brought at par with that of the High Court. Therefore, the dispute remains to the previous period from 2007 to 2016.

16. In such circumstances, allowing the pay-scale at a lower scale than what has been allowed to the Personal Assistants and Assistants of the High Court would be discriminatory and illegal due to following reasons:-

- (i) The State Government itself has expressed their inability to post senior Personal Assistants and Personal Assistants from the Secretariat to

JHALSA since there was shortage of PAs in the Joint Secretariat Cadre and requested for either deputing the said employees from the High Court pool or making appointments at their level;

- (ii) These petitioners have been duly selected pursuant to the same advertisement issued by the High Court for the post of Personal Assistant in the pay scale of Rs. 5500-175-9000/- and posted at JHALSA and persons who were appointed along with the petitioners by the Jharkhand High Court pursuant to the aforementioned advertisement, are getting the enhanced pay-scale and grade pay;
- (iii) At the time of appointment, the pay-scale of the petitioners was at par with their counterparts who were appointed at High Court and the Secretariat;
- (iv) It is a settled principle of law that if the pre-revised pay-scale is same then on revision, there cannot be any discrimination when the pay-scale is revised.
- (v) The State Government itself in the later stage came with Jharkhand Gazette Rules, 2016 where the pay-scale of the JHALSA Personal

Assistant and Assistants has been brought at par with that of the High Court.

- (vi) The delay in framing and implementing the Jharkhand Gazette Rules 2016 cannot be attributed to these petitioners and they cannot be penalized for that as admittedly; the request for amendment in Schedule- I at Sl. no. 5 & 6 of the Jharkhand State Legal Services Authority Rules, 2001, so as to bring the pay-scale of Personal Assistants and Assistants at par with PAs and Assistants of Jharkhand High Court, was made immediately after the Registrar General, Jharkhand High Court issued office order wherein pursuant to resolution of the Government dated 06.03.2007 PAs were granted revised pay scale of Rs. 6,500-200-10,500/- for the sole reason that all of them were appointed from the same advertisement. Further, all the queries were replied way back in the year 2011 itself.

17. It is now no more *res integra* that the theory of equality, is an essential ingredient in formulation of any policy by the State and the glance of the same can be found in Articles 38, 39, 39A, 43 and 46 embodied in Part IV of the Constitution of India. These Articles of the Constitution

of India command that the State is under a constitutional obligation to guarantee a social order providing justice-social, economic and political, by *inter alia*, minimizing monetary inequalities, and by securing the right to sufficient means of livelihood and by providing for adequate wages so as to ensure, an appropriate standard of life, and by promoting economic interests of the weaker sections. In other words, if the State is giving some economic benefits to one class while denying the same to other then the *onus* of justifying the same lies on the State specially in the circumstances when both the classes or group of persons were treated as same in the past by the State. Since these petitioners have been duly selected pursuant to the same advertisement issued by the High Court and at the time of appointment, the pay-scale of the petitioners was at par with their counterparts who were appointed at High Court and the Secretariat, there is no justification in denying them the same benefits.

18. It is by now well settled that no orders causing civil consequences can be passed, without observing rules of natural justice as it was held in ***Bhagwan Shukla vs. Union of India & Ors. AIR 1994 SC 2480*** wherein it was held as under:

“3. We have heard learned counsel for the parties. That the petitioner's basic pay had been fixed since 1970 at Rs, 190 p.m. is not disputed. There is also

no dispute that the basic pay of the appellant was reduced to Rs. 181 p.m. from Rs. 190 pan. in 1991 retrospectively w.e.f. 1812.1970. The appellant has obviously been visited with civil consequences but he had been granted no opportunity to show cause against the reduction of his basic pay. He was not, even put on notice before his pay was reduced by the department and the order came to be made behind his back without following any procedure known to law. There, has, thus, been a flagrant violation of the principles of natural justice and the appellant has been made to suffer huge financial loss without being heard. Fair play in action warrants that no such order which has the effect of an employee suffering civil consequences should be passed without putting the concerned to notice and giving him a hearing in the matter.

19. The argument of the learned counsel for the Respondent-State that when the petitioners were appointed, the recruitment rule for JHALSA was not framed and petitioners' contention that they are at par with the employee of High Court is misconceived is not acceptable to this Court for the sole reason that all these petitioners were duly selected pursuant to the same advertisement issued by the High Court for the post of Personal Assistant in the pay scale of Rs. 5500-175-9000/- and posted at JHALSA and that too when State Government itself has expressed their inability to post senior Personal Assistants and Personal Assistants from the Secretariat to JHALSA since there was

shortage of PAs in the Joint Secretariat Cadre and requested for either deputing the said employees from the High Court pool or making appointments at their level. The judgment cited by the learned counsel for the State is not applicable in the facts and circumstances of this case and for the reasons stated herein above.

20. In view of the aforesaid discussion, all these writ applications are allowed and it is held that all these petitioners are entitled for the pay-scale of Rs. 6,500-200-10,500/- w.e.f. 15.09.2006 (notionally) and for monetary benefit w.e.f. 01.03.2007 and Grade pay of Rs. 4,600/- in view of Memo no. 2954 dated 30th October, 2010 issued by the Finance Department, Government of Jharkhand, Ranchi w.e.f. 01.01.2006 till the enactment of Jharkhand Gazette Rules 2016.

It goes without saying that the concerned respondents are directed to calculate the arrears and pay the same within a period of 16 weeks from the date of receipt/production of copy of this order.

21. With the aforesaid terms, these writ applications stands disposed of.

(Deepak Roshan, J.)