

HIGH COURT OF GUJARAT

GANGJI DADUBHAI CHANDE

Versus

STATE OF GUJARAT AND ORS

Date of Decision: 10 June 2013

Citation: 2013 LawSuit(Guj) 585

Hon'ble Judges: [C L Soni](#)

Case Type: Special Civil Application

Case No: 667 of 2003, 23739, 23745, 1290, 1287 of 2005, 7153 of 1998 and 434 of 2001

Final Decision: Application allowed

Advocates: [Pranav G Desai](#), [Ronak Raval](#), [H S Munshaw](#), [J A Adeshra](#), [Mehul H Rathod](#), [D G Chauhan](#), [R C Jani](#)

Cases Referred in (+): 3

C. L. Soni, J.

[1] Petitioners of this group of petitions have raised grievance against reduction in and/or non-granting of benefits of pay scale of Rs.4000-6000 for the post of Engine Driver under the respondent No.2 to 4.

[2] The petitioners of Special Civil Application No. 23739 of 2005, 23740 of 2005, 23741 of 2005, 434 of 201 and 667 of 2003 have retired pending the petitions.

[3] The case of the petitioner in Special Civil Application No. 667 of 2003 is that he was originally, appointed as work charge Chokidars by order dated 5.11.1977 in the pay scale of Rs.196-232 and then appointed as work charged helper on 20.8.1979 in the pay scale of Rs.210-270 and later on promoted on 26.8.1988 as Engine Driver in the pay scale of Rs.350-560. It is his case that though he was entitled to revised pay scale of Rs.1200-2040 and further revised pay scale of Rs.4000-6000 but his pay was fixed in the pay scale of Rs.950-1500 and then fixed in revised pay scale of Rs.3050-4590. The petitioner has thus prayed to direct the respondents to fix his pay in the pay scale of Rs.1200-2040 and further in the revised pay scale of Rs.4000-6000 with effect from 1st January, 1996.

[4] The petition is opposed by reply affidavit stating that the petitioner, on promotion was given revised pay scale of Rs.950-1500 which was revised to Rs.3050-4590 and said pay scale was paid to the engine drivers of the respondent Board. It is further stated that the pay scale for the engine driver of the State Government cannot be made available to the petitioner.

[5] The case of the petitioners of Special Civil Application No. 23739 of 2005 to 23745 of 2005 is that they are working as Engine Drivers in Public Health Circle of the Gujarat Water Supply and Sewerage Board (the Board for short). They were initially appointed in the pay scale of Rs.160-265 which was revised to Rs.350-560 and then revised to Rs.1200-2040 which came to be further revised to Rs.4000-6000 with effect from 1st January, 1996, as per the Gujarat Civil Services (Revision of Pay) Rules, 1998. It is their case that their pay scale of Rs.4000-6000 is reduced to Rs.3050-4590 on the ground that the Government has not approved revision in the pay scale of Rs.4000-6000. They have come out with the case that the pay scale of Rs.350-560 was revised as per the Revision of Pay Rules, 1987 and further revised under Revision of Pay Rules, 1998. The benefits of revision of pay scale were rightly granted to the petitioners and there was no question of wrong fixation of the pay of the petitioner. They have thus challenged order dated 18.8.2005 passed by the respondent authority at annexure A reducing their pay scale and ordering recovery of the excess amount paid to them.

[6] Special Civil Application No. 7153 of 1998 is filed to challenge the order dated 24.8.1998 at annexure A cancelling the revised pay scale of Rs.4000-6000 with effect from 1st January, 1996 on the ground that till the verification of revision of pay was carried out, the revised pay would remain cancelled and ordering to recover excess amount paid to the petitioner by ten installments. The case of the petitioner is that his pay was revised to Rs.1200-2040 under ROP Rules, 1987. Such pay was sought to be reduced by placing the petitioner in the pay scale of Rs.950-1500 and, therefore, petitioner preferred Special Civil Application No. 1802 of 1994 wherein interim relief protecting pay of the petitioner was granted on petitioner s filing undertaking that he shall refund the difference of wages received by him on his failing in the petition. Thereafter, as per the Revision of Pay Rules, 1998, pay scale of Rs.1200-2040 was revised to Rs.4000-6000 giving effect from 1.1.1996 and the petitioner was paid part amount of the difference of the pay scale. However, without any reason, impugned order is passed.

[7] The case of the petitioner in Special Civil Application No. 434 of 2001 is that he initially joined the service as Helper in the pay scale of Rs.110-140. The pay was revised to Rs.210-270. He was then promoted to work charged wireman in the pay scale of Rs.260-400 and then by order dated 7.1.1985, he was promoted as Work Charge Engine Driver and was placed in the pay scale of Rs.350-560 which later on

came to be revised to Rs.1200-2040 under Revision of Pay Rules, 1987 and came to be further revised to Rs.4000-6000 from 1st January, 1996. The petitioner was also paid arrears of revision of pay. However, said pay scale of Rs.4000-6000 was reduced to Rs.3050-4590 by order dated 2.1.2001 without any rhymes and reason. The petitioner has, therefore, challenged the order of reducing his pay scale from Rs.4000-6000 to the pay scale of Rs.3050-4590 and also challenged recovery of the difference of amount paid to the petitioner.

[8] The case of the petitioners in Special Civil Application No.1287 of 2005 and 1290 of 2005 is that they were appointed in the pay scale of Rs.350-560 which was revised to Rs.1200-2040. However, said pay scale was sought to be reduced to the pay scale of Rs.950-1500 and, therefore, Special Civil Application No.1658 of 1994 and 1659 of 1994 were preferred by the petitioners wherein the petitioners were protected on their filing undertaking before the court that on their failing in the petition, they shall refund the difference of amount paid to them. Thereafter, their pay scale was further revised to Rs.4000-6000 with effect from 1st January, 1996 under Revision of Pay Rules, 1998 but they have not been paid any amount under the said revised pay scale. The petitioners have thus sought direction to the respondents to pay them entire amount of arrears of difference of the pay scale of Rs.4000-6000 with effect from 1.1.1996 and to give benefit of higher pay scale on the basis of 9-18-27 years of service.

[9] In all the above petitions, the respondents have filed reply mainly stating that the petitioners were not entitled to the pay scale of Rs.350-560 and, therefore, they are not entitled to corresponding revised pay scale of Rs.1200-2040 and 4000-6000.

[10] I have heard learned advocates for the parties. Learned Advocate Mr. J.A. Adeshra appearing for the petitioners in all these petitions submitted that under the Revision of Pay Rules, 1987, pay scale for the post of Engine Driver is revised from Rs.350-560 to Rs.1200-2040. Mr. Adeshra submitted that if the pay scale of Engine Driver under the Revision of Pay Rules, 1975 was Rs.350-560, the petitioners were entitled to scale to scale revision of pay under Revision of Pay Rules, 1987 as well as Revision of Pay Rules, 1998. He submitted that the respondents are not justified in reducing the pay scale of the petitioners after the period of more than 30 years on the ground that the petitioners were not entitled to the pay scale of Rs.350-560. Mr. Adeshra submitted that nowhere in the impugned orders, the respondents have stated that the original pay scale was wrongly given. He submitted that if the original pay scale for the post of Engine Driver came to be first revised under the Revision of Pay Rules, 1975 to Rs.350-560, then, under the subsequent Revision of Pay Rules, there was no error committed in scale to scale fixation of the pay scale of the petitioners. Mr. Adeshra submitted that such fixation of pay scales of the petitioners was also verified by the Verification Department. Mr. Adeshra submitted that three similarly situated

engine drivers retired with the same pay scale which the petitioners are claiming and in those three cases, there was no reduction of pay scale whereas in the case of the petitioners, the respondents have reduced the pay scale of the petitioners. Mr. Adeshra submitted that in the case of the petitioners of Special Civil Application No. 23739 of 2005 to 23745 of 2005, 1287 of 2005 and 1290 of 2005, since against their original pay scale of Rs.160-265, the revised pay scale of Rs.350-560 was given to them, it is not permissible to the respondent authorities to reduce the original pay scale of the petitioners after a period of more than 32 years of service, on the ground that the same was erroneously granted to them. Mr. Adeshra submitted that once the revised pay scale of Rs.1200-2040 was verified by the Pay Verification Department of the State Government, petitioners became entitled to Rs.4000-6000 on the basis of scale to scale revision under the Revision of Pay Rules, 1998. Mr. Adeshra submitted that even the action of the State Government in not approving revised pay scale of Rs.4000-6000 is contrary to the Revision of Pay Rules, 1998. Mr. Adeshra thus urged to allow these petitions and quash and set aside the action of the respondents in reducing the pay scale of the petitioners and to recover difference of amount paid under the revised pays scale to the petitioners. Mr. Adeshra further urged to direct the respondents to release the benefit of revision of pay of Rs.4000-6000 to the petitioners who have not been given the benefits of the same.

[11] As against the above arguments, learned Advocate Mr. Mehul H. Rathod appearing for the respondent Board submitted that the petitioners were never entitled to revised pay scale of Rs.350-560 and, therefore, the petitioners could not be made entitled to subsequent revision of pay scale of Rs.1200-2040 and Rs.4000-6000. Mr. Rathod submitted that no employee can be made entitled to draw the pay scale contrary to Pay Rules and if at any time it is found that the mistake is committed in the matter of grant of pay scale to any employee, the employer is always justified to correct such mistake. Mr. Rathod submitted that delay on the part of the respondents in taking up such rectification action cannot make the petitioners entitled to the benefit of pay scale which the petitioners are otherwise not legally entitled to. Mr. Rathod submitted that the petitioners from the beginning have been taking undue advantage by filing litigation after litigation and prolonging taking of action against them and, therefore, the petitioners are not entitled to plea of delay on the part of the respondents to take action to withdraw the pay scale which was wrongly granted to them. Mr. Rathod submitted that the petitioners were not entitled to pay scale of Rs.350-560 under the Revision of Pay Rules, 1975 because such revised pay scale was not for and against their original pay scale. Mr. Rathod submitted that in fact, the mistake was already corrected by the respondent authority in the year 1976 but then on account of further mistake committed by the executive engineer in again fixing pay of the petitioners in the pay scale of Rs.350-560 in the year 1980, the petitioners

continued to draw undue benefits for mistake committed by the Executive Engineer. Mr. Rathod submitted that it was at the time when the revised pay scale of Rs.1200-2040 was sent for verification. The mistake came to be noticed by the Verification Department about wrong fixation of the pay scale of the petitioners and thereafter, immediately steps were taken to correct such mistake. Mr. Rahtod submitted that the pay fixation under the Revision of Pay Rules, 1998 was therefore made subject to the result of the pending petitions before this court filed by the petitioners and since those petitions were disposed of with a direction to hear the petitioners and to take decision, the petitioners were heard and it is finally found that the petitioners were not entitled to the revised pay scale of Rs.1200-2040 and subsequent revised pay scale of Rs.4000-6000 and, therefore, the orders are passed by the respondents for reducing the pay scale of the petitioners. Mr. Rathod submitted that when the petitioners filed earlier petitions in the year 1994, the petitioners were granted benefit of revised pay scale on condition of their giving undertaking to refund on their failing in the petitions. Petitioners had also given further undertaking to the Board that if the pay scale of Rs.4000-6000 is not approved, then, they shall refund the excess amount received under the pay scale of Rs.4000-6000. Mr. Rathod therefore submitted that now since it is found that the petitioners were wrongly given all the pay scales under different Revision of Pay Rules, the petitioners are required to refund difference of the amounts received by them under the revised pay scales. Mr. Rathod also submitted that the industrial tribunal in one case has held against similarly situated persons in respect of their claim for similar pay scale and this court has also not interfered in the said order. Mr. Rathod, thus, urged to dismiss all these petitions. In support of his above submissions, learned advocate Mr. Rathod relied on the decision of Hon ble the Supreme Court in the case of [P.H. Reddy v. N.T.R.D.](#), 2002 2 SLR 694; [Karnataka Lokopayogi Ilaka Tantrika Sahayak Noukarara Sangha versus State of Karnataka and another](#), 1999 2 SCC 713; [Chandi Prasad Uniyal v. State of Uttarakhand](#), 2012 8 SCC 417.

[12] Learned Advocate Mr. Chauhan, Mr. Munshaw and Mr. Jani appearing for respondent No.2 and 3 in Special Civil Application No.7153 of 1998, 667 of 2003 and 434 of 2001 submitted that the petitioners are not entitled to ask for benefit of pay scale contrary to the Revision of Pay Rules. Mr. Chauhan submitted that the pay scale of Rs.350-560 given to the petitioners was not according to Revision of Pay Rules, 1975 and therefore, the petitioners were not entitled to scale to scale revision under the Revision of Pay Rules, 1998. Mr. Chauhan submitted that the petitioners had time and again stalled the process of the board in correcting its mistake of wrong fixation of pay scale of the petitioners and thus continued in wrong pay scale and, therefore, they cannot now contend that there is delay on the part of the respondents in taking action. Mr. Chauhan submitted that if the first revision of pay was wrongly done, mistake in

subsequent revision of pay could be corrected at any time and when the pay verification department has not approved the earlier fixation of pay scale and when the State Government has refused to sanction the pay scale of Rs.4000-6000, the petitioners cannot be made entitled to the pay scale of Rs.4000-6000. Mr. Chauhan thus urged to dismiss these petitions.

[13] Learned AGP Mr. Ronak Raval submitted that no employee could be permitted to draw the pay scale contrary to the Revision of Pay Rules. Mr. Raval submitted that in initial fixation of pay in the pay scale of Rs.350-560 was on wrong basis and contrary to the Revision of Pay Rules, 1975 and, therefore, petitioners would not be entitled to any benefits under the subsequent revision of pay scale. Mr. Raval submitted that at the time of revision of pay under the Revision of Pay Rules, 1998, it was made clear to the petitioners that such revision of pay in the pay scale of Rs.4000-6000 was subject to pendency of the petitions before this Court. Mr. Raval submitted that now on disposal of those petitions in the year 1999, when the petitioners were heard as per the directions of this court and when it is found that the fixation of the pay of the petitioners was wrong, no illegality could be found in the decision of the State Government in not approving the pay scale of Rs.4000-6000. Mr. Raval thus submitted that the respondents have not committed any illegality in cancelling the pay scale of Rs.4000-6000 and ordering to recover excess amount paid to the petitioners under wrong revision of different pay scales. Mr. Raval, thus, urged to dismiss these petitions.

[14] Having heard learned advocates for the parties and having perused the record of the petitions, it appears that there is no dispute about the fact that the revised pay scale of Rs.350-560 for the post of Engine Driver was given to the petitioners. It appears that the petitioners of special civil application no.23739 of 2005 to 23745 of 2005, Special Civil Application No. 7153 of 1998 and of Special Civil Application No.1287 and 1290 of 2005 had filed different petitions in 1994 challenging the reduction of the pay scale from Rs.1200-2040 to Rs.950-1500. Pending the petitions, they were granted interim protection. Their pay scale was then revised to Rs.4000-6000 under ROP Rules, 1998. Thereafter, their petitions being Special Civil Application No. 1803 of 1994 and allied matters were disposed of with direction to hear them and to pass appropriate orders. The interim protection granted to the petitioners was ordered to be continued till the final orders were passed by the respondents. Following observations in paragraphs 2 and 7 in the order dated 2.11.1999 passed by this Court in Special Civil Application No. 1803 of 1994 and allied matters read as under:

2. All the petitioners are Engine Drivers. They were given the pay sale of Rs.350-560 w.e.f. 1-1-1973. From 1-1-1986 this pay scale of Rs.350-560 was revised to Rs.1200-2040 and accordingly the petitioners were given the benefits of this

revised pay scale. After about eight years, the respondents have sought to reduce the pay scale of the petitioners from Rs.1200-2040 to Rs.950-1500.

7. The other contention of the learned counsel for the petitioners that by mistake of treating existing pay scale of the petitioners to be Rs.260-350, in the Revised Pay Scale Rules of 1987, the respondents want to take the benefit of this mistake is also not without any substance and merits. The petitioners were given the pay scale of Rs.350-560 from 1-1-1973 and the revised pay sale for this from 1-1-1986 is Rs.1200-2040 which they were also given. In these facts, it is a case where the personal hearing has to be afforded to the petitioners as the impugned order ensues civil consequences. This court has protected the petitioners by grant of interim relief though subject to the condition of furnishing an undertaking by the petitioners to the effect that in case of their failure in the petitions they shall pay up the difference of wages received by them within time stipulated by the court while disposing of the petitions finally. So the petitioners were getting all the benefits.

[15] After those petitions were disposed of in the month of November, 1999, revised pay scale of Rs.4000-6000 given to those petitioners was ordered to be cancelled and reduced to Rs.3050-4590 in the year 2005. The only ground stated in the impugned decision/order is that since the Government has not approved the pay scale of Rs.4000-6000 for the post of Engine Driver, the pay scale of the petitioners of Rs.4000-6000 is reduced to Rs.3050-4590. By this order, the respondents have also cancelled the pay scale of Rs.350-560 as well as the pay scale of Rs.1200-2040 and ordered recovery of difference of amount paid to the petitioners.

[16] In affidavit in reply dated 11th December, 2005 filed in Special Civil Application No.23739 of 2005 on behalf of respondents No. 2 to 4, it is stated that the petitioners were placed in the pay scale of Rs.160-265 instead of Rs.125-200 and this mistake was rectified by order dated 15.10.1974. Petitioner had challenged the said rectification order and as per the order passed in the petitions, the petitioners were given hearing. That petition was disposed on 5.4.1978 for affording hearing to the petitioners. It is further stated that on 15.9.1976, the petitioners were placed in the pay scale of Rs.260-360 but thereafter, on the basis of the application of the petitioner, the petitioner was given pay scale of Rs.350-560 with effect from 1974. Such scale was granted by the Executive Engineer by mistake and same was not sent for pay verification and such mistake was not noticed till next pay revision under Revision of Pay Rules, 1987. On the basis of the pay scale of Rs.350-560, revised pay scale of Rs.1200-2040 was given to the petitioners under the Revision of Pay Rules, 1987. However, such mistake was rectified by order dated 29.1.1994 by placing the petitioners in the pay scale of Rs.950-1500 but the petitioners challenged such action

by filing petitions in the year 1994 wherein the petitioners were protected by interim order. It is further stated that pending the said petition, petitioners were granted further revised pay scale of Rs.4000-6000 under the Revision of Pay Rules, 1998 subject to the final decision in the said petitions. Said petitions were disposed of by directing the respondents to give hearing to the petitioners. It is further stated that after hearing, the Board made proposal to the Government for approval of the pay scale of Rs.4000-6000. However, the Government rejected the proposal and, therefore, the Board rectified mistake by placing the petitioners from Rs.1200-2040 to Rs.950-1500 under the Revision of Pay Rules, 1987 and from Rs.4000-6000 to Rs.3050-4590 under Revision of Pay Rules, 1998. Such rectification order was passed on 18.4.2002. However, same could not be implemented and subsequently, implementing the same, impugned orders were passed.

[17] In additional affidavit filed on 23.4.2013 on behalf of respondents No. 2 to 4, it is stated that as per the Gujarat Civil Services Pay Rules, 1969, Engine Drivers of Public Health Engineering Circle were entitled to the pay scale of Rs.125-200 but through over sight, the petitioners were erroneously given the pay scale of Rs.160-265 which was the pay scale of engine drivers of public health works department. Said pay scale was then corrected and revised to Rs.260-350 and, therefore, the petitioners were not entitled to the pay scale of Rs.350-560.

Learned Advocate Mr. Mehul Rathod stated before the Court that the above is the common stand of Respondents No.2 to 4 in all the petitions.

[18] There is no dispute about the fact that the petitioners were appointed as engine driver on work charge establishment. Sub-rule (2)(d) of Rule 2 of the Gujarat Civil Services Pay Rules, 1969 clearly provides that the said Rules shall not apply to the Government servants appointed on work charged establishment or on daily rate basis or employed casually. Therefore, the stand taken by respondents in additional affidavit appears to be contrary to the Gujarat Civil Services Pay Rules, 1969.

[19] Learned Advocate Mr. Mehul Rathod also placed reliance on Resolution dated 20th March 1976 at annexure R-1 annexed with the reply filed on behalf of Respondents No.2 to 4 in Special Civil Application No. 23739 of 2005 so as to point out that the pay scale of engine drivers was revised to Rs.260-350 from Rs.125-200 as mentioned at item no.95 in the schedule C attached with the said resolution. But then, in this very Schedule C with the said resolution, at item no.35, for the post of engine driver, the revised pay scale of Rs.350-560 is also mentioned against the pay scale of Rs.160-265. Therefore, at two places, the posts of engine drivers with two different original pay scale are found mentioned in the Schedule-C. At item no.35, against the pay scale of Rs.160-265, which was the original pay scale of the petitioners, the revised pay scale

mentioned is Rs.350-560. If the Gujarat Civil Services Pay Rules, 1969 had no application to the employees appointed on work charge establishment like petitioners, then, revised pay scale at item no. 95 in schedule C could not be for such employees. In para 1 of the resolution, it is clearly provided that the revised pay scales of various categories of corresponding posts on work charge establishment under Public Health Engineering Wing should be as shown in Schedule C which accompanied the Government Resolution, Public Works Department dated 8th January, 1976. Therefore, when the revised pay scale of Rs.350-560 for Engine Driver was given against the pay scale of Rs.160-265 as per the said resolution, it cannot be said that the same was erroneously granted to the petitioners especially when the Gujarat Civil Services Pay Rules, 1969 has no application to the employees on work charge establishment. If said Rules of 1969 had no application qua work charge employees, the revised pay scale of Rs.260-350 from Rs.125-200 as mentioned at item no.95 for the post of engine driver could not have been applied to the petitioners.

[20] Since the above clear position is emerging from the 1969 Rules, as also from the resolution dated 20th March, 1976, the petitioners were entitled to the benefit of further scale to scale revision under ROP Rules, 1987 and ROP Rules, 1998 on the basis of pay scale of Rs.350-560.

[21] It is required to be noted that the order challenged in Special Civil Application No. 23739 of 2005 to 23745 of 2005 nowhere records that the petitioners were wrongly placed in the pay scale of Rs. 160-265 as against their entitlement of Rs.125-200.

[22] It is also required to be noted that ROP Rules, 1975 recognizes the post of engine driver with the pay scale of Rs.160-265 and not with the pay scale of Rs.125-200. In resolution of 1976, at Annexure R-1 also, Rs.160-265 is shown as pre-revised pay scale for the post of Engine Driver. Therefore, it clearly appears that the revised pay scale of Rs.350-560 was correctly granted to the petitioners.

[23] Even otherwise, ROP Rules, 1969 provide for the pay scale for different posts in Public Health Engineering Circle of Ahmedabad and Rajkot only. Petitioners are work charge engine drivers from Kachchh District. In ROP Rules, 1969, for Public Health Engineering Circle, Ahmedabad, the posts of Driver are differently described. One is the post of driver (Jeep) and the another is the post of driver (engine). For Rajkot Circle, no specification is given. It is simply described as driver. For both the cities, the pay scale mentioned against the post of driver is Rs.125-200. In this ROP Rules, 1969, pay scale for various posts in other wings and departments are mentioned. In the office of Chief Engineer, Superintending Engineer and Director of Engineering Research Institute as also the Directorate of Ports, there are posts of engine driver. Against such posts, pay scale of Rs.125-200 is not provided. In Engineering Department, against

post of engine driver, pay scale of Rs.160-265 is mentioned, whereas for the department of Directorate of Ports, pay scale for the said post is shown of Rs.165-245.

The above rules thus go to show that in different departments, posts of drivers are differently described. Respondents have not come with any clear material to show as to what was the source for the pay scale of engine driver in Kachchh District. Therefore, when the resolution of the State Government dated 20th March, 1976 at annexure R-1 provided for the revised pay scale of Rs.350-560 for engine drivers on work charge establishment of Public Health Engineering Wing as against the pay scale of Rs.160-265 as mentioned in Schedule C, it cannot be said that the pay scale of Rs.160-265 could never have been there for the post of engine driver in Kachchh District in Public Health Engineering Wing.

[24] In any case, since the petitioners have continued to draw the the first revised pay scale of Rs.350-560 and further revised pay scale of Rs.1200-2040 under ROP, 1987, the respondents are not justified to reduce the last revised pay scale on the ground that the original pay scale was erroneously granted.

[25] It is required to be noted that after the pay scale of Rs.350-560 was revised to Rs.1200-2040 under ROP Rules, 1987, till 1994, the petitioners continued to draw pay scale in the pay scale of Rs.1200-2040. After 1994, when the petitions were filed, the pay scale of Rs.1200-2040 was verified subject to the result of the petitions. At no point of time, pay scale of Rs.350-560 was sought to be reduced on the ground that the same was wrongly given to the petitioners. As stated above, it is nowhere stated in the impugned decision that the original pay scale was wrongly granted and therefore revision of pay scale to Rs.350-560 was wrong. Revised pay scale of Rs.1200-2040 was verified by the pay verification department and such verification has become final as after the disposal of earlier petitions, there is no further order of making change in the verification done by the pay verification department.

[26] The Government vide communication dated 29.8.1998 intimated to respondent No.3 - Board that the Government accepted the recommendations of 5th Pay Commission for giving benefit of scale to scale revision of pay as per Schedule-I attached with the said communication at Annexure G of Special Civil Application No. 23739 of 2005 to the work charge employees of the Board. As per the said Schedule-I, on the basis of such scale to scale revision, the petitioners were entitled to pay scale of Rs.4000-6000 under ROP Rules, 1998 with effect from 1st January, 1996.

[27] In light of above, since it was not open to the respondents to cancel the revised scale of Rs.350-560 after long period of more than 20 years, respondents cannot be permitted to reduce the pay scale of Rs.4000-6000 to Rs.3050-4590 based on

cancellation of pay scale of Rs.350-560 especially when in the case of three similarly situated persons, pointed out by the petitioners in their additional affidavit and not disputed by the respondents, the respondents have not reduced their pay scales.

In view of what is stated and discussed above, the decisions cited by Ld. Advocate Mr. Rathod will have no application in the facts of the case and the contention about not accepting the claim of the similarly situated person by the Industrial Tribunal cannot help the respondents.

[28] For the reasons stated above, the order/decision of reducing the pay scale of Rs.4000-6000 to Rs.3050-4590 are required to be quashed and set aside and all the petitions except Special Civil Application No.7153 of 1998 are required to be allowed.

[29] So far as Special Civil Application No. 7153 of 1998 is concerned, petitioner has challenged order dated 24.8.98 whereby it was provided that the benefit of revision of pay under ROP Rules, 1998 would not be given effect till the verification was done. In the petition, it is stated that the petitioner has also challenged action of the respondents in reducing pay scale of Rs.1200-2040 by filing Special Civil Application No.1658 of 1994. Subsequently said petition was disposed of as stated above and fresh decision was ordered to be taken. Therefore, grievance raised in the present petition may not survive. If the petitioner has been drawing the pay scale of Rs.4000-6000 which was revised from Rs.1200-2040, the petitioner shall continue to draw such revised pay scale. Except this, no other order is required to be passed in this petition. Rule is discharged accordingly.

[30] Special Civil Application No. 667 of 2003, 23739 of 2005 to 23745 of 2005, 1287/2005, 1290/2005 and 434 of 2001 are allowed. Impugned decision of reducing the pay scale from Rs.4000-6000 to Rs.3050-4590 and cancellation of pay scale earlier revised is quashed and set aside. It is directed that if any recovery is made from any of the petitioners on the basis of the impugned decision, respondents shall refund such amount to the petitioner. It is further directed that if the petitioner of special civil application No. 667 of 2003 is not paid benefit of revised pay scale of Rs.1200-2040 and of Rs.4000-6000, the same shall be paid to him. The respondents are also directed to pay benefits of revised pay scale of Rs.4000-6000 to the petitioners of Special Civil Application No.1287 of 2005 and Special Civil Application No.1290 of 2005. The respondents shall comply with this directions within three months from the date of receipt of this order. Rule is made absolute in each of the petitions to the extent stated above.