



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 14046 OF 2024**

SANJAY KUMAR UPADHYAY

.....APPELLANT

VERSUS

STATE OF JHARKHAND AND ORS.

.....RESPONDENTS

J U D G E M E N T

J.K. Maheshwari J.

1. Arising out of the judgement dated 30.03.2022 passed in LPA No. 269 of 2012 wherein the judgement dated 14.12.2011 of the learned Single Judge in W.P. (S) No. 5743 of 2005 was set-aside by Division Bench of the High Court of Jharkhand at Ranchi, the present appeal has been preferred by the Employee. The dispute between the parties herein relates to grant of higher pay scale to the Employee after removal of anomalies in pay scale, on parity with other similarly situated persons who have been already granted the said benefit by the Respondent – Employer.

2. The learned Single Judge relying upon judgement of High Court of Patna in ***Nagendra Sahani v. State of Bihar***¹ and ***Alakh Kumar Sinha v. State of Bihar***², in the Writ Petition had directed the Respondent – Employer to revise the pay scale of the Employee with effect from the date of his appointment in the pay scale of Rs. 1600 – 2780 along with other consequential benefits, i.e., arrears of salary etc. On filing a Letters Patent Appeal by the Respondent – Employer, it came to be allowed by the impugned order, setting aside the directions of the learned Single Judge, hence, the present appeal.

FACTUAL BACKDROP

3. Shorn of unnecessary details, the present appeal arises out of the recruitment process initiated by the State of Bihar for filling up Graduate-level Non-gazetted Class-III vacancies of sixteen posts in various departments, including the post of Industries Extension Officer (hereinafter '**IEO**'), by way of common competitive examination conducted by the Bihar State Subordinate Services Selection Board in the year 1981. The Appellant participated in the

¹ CWJC No. 8419 of 1992

² CWJC No. 12301 of 2004

said process, was duly selected, and came to be appointed as IEO by order dated 27.05.1992, in the pay scale of Rs. 1400-2600.

4. It is not in dispute that appointments for all sixteen posts were made pursuant to a common examination and the allocation to different departments was done purely by way of administrative allotment without any option exercised by the candidates. It is also not in dispute that prior to the 4th Pay Revision in April, 1981 all these posts were placed in same pay-scale. However, after the 4th pay revision, an anomaly arose when ten out of these sixteen posts were accorded a higher revised pay scale of Rs. 850-1360, while six of these posts were placed in the lower pay scale of Rs. 296-460. This anomaly was considered by the 4th Pay Anomalies Committee in 1987, which recommended the same scale of pay for similarly situated posts, but the Industries Department did not place the case of Industries Extension Officers before the Committee, resulting in the continuance of the lower scale.

5. Upon the implementation of the 5th Pay Commission in December, 1989, the disparity persisted as ten posts were placed in the higher pay scale of ₹1600-2780, while the remaining six posts continued in the pay scale of ₹1500-2750. This differential treatment,

despite the common recruitment examination sans allotment based on merit-cum-preference method, became the subject of litigation before the Patna High Court in **Nagendra Sahani** (Supra), wherein by judgment dated 22.09.1993 the Division Bench of High Court of Judicature at Patna held that there was no reasonable classification to justify the disparity caused by fixing two different pay scale for these similarly situated persons recruited on the same posts and directed that all incumbents of these sixteen posts be placed in the higher pay scale of ₹1600-2780 with effect from 01.01.1986. It was also observed that similarly situated persons need not approach the Court individually for the same relief. Relevant paragraphs of the same is reproduced as under –

“We do not find any reasonable nexus in fixing two revised scales of pay for the aforesaid 16 types of posts. It is true that the State Government could have made out a case that its decision is not arbitrary or discriminatory. It could have also come out with a case making reasonable classification in relation to the aforesaid 16 types of posts, but no such attempt has been made on behalf of State as would appear from the counter affidavit. In view of these facts, we are clearly of the view that the persons who are working on 16 types of posts, enumerated in Annexure 1, are entitled to the scale of Rs. 1600-2780/- with effect from 01.01.1986 and as decided by State Government, while accepting the recommendations of the Fifth Pay Revision Committee, they will be entitled to monetary benefits in the scale with effect from 01.03.1989. Since the petitioners have been appointed on the post or the other, enumerated in Annexure 1, they are entitled to the said scale. It is stated that some of the petitioners were appointed on 07.10.1988 and some after 01.03.1989. We direct that those persons who were appointed on 07.10.88 will be granted the scale of Rs. 1600-2790 with effect from that date but the benefit

of this scale will be given to them with effect from 01.03.1989. We further direct that those persons who were appointed after 01.03.1989 will be granted the scale of Rs. 1600-2780/- from the date of their appointment. We also direct that pursuant to this order, arrears amount must be paid to the petitioners within a period of three months from the date of receipt of a copy of this order by Junior Counsel to learned Standing Counsel No. 4.

We are told that there are several other persons whose case are similarly situated but they have not moved this court. We are of the view that if cases of those persons are similarly situated, they are not required to move this court, but they shall be also granted the same scale with similar monetary benefits within the aforesaid time. This writ application is accordingly allowed.”

6. In the meantime, the Fitment Appellate Committee headed by Hon’ble Mr. Justice (Retd.) Aftab Alam, on 15.01.2000, examined the anomaly afresh and recommended the uniform revised scale of ₹5000-8000 for all sixteen posts. Relying on the judgment in **Nagendra Sahani** (Supra) and the Fitment Appellate Committee’s report, the Appellant addressed representations to the Respondent - Employer, on 01.04.2001 and 27.04.2002, seeking grant of the higher scale of pay from the date of his appointment. However, these representations were rejected vide letter dated 13.09.2004. In the meantime, by promulgation of the Bihar Reorganisation Act, 2000³, the State of Jharkhand was carved out of the territory of the State of

³ Act No. 30 of 2000.

Bihar, and the services of the Appellant, who was earlier appointed by the State of Bihar were allocated to the State of Jharkhand.

7. The Appellant filed W.P.(S) No. 5743 of 2005 before the High Court of Jharkhand praying for issuance of an appropriate writ to the Respondent-Employer to grant him pay scale as genuine in place of anomaly in pay scale in parity with other similarly situated persons. Vide judgment dated 14.12.2011, the learned Single Judge of the High Court of Jharkhand, Ranchi allowed the writ petition, holding that the case was squarely covered by the judgements of the Patna High Court in **Nagendra** (Supra) and **Alakh Kumar Sinha** (Supra) and directed the State to revise the Appellant's pay scale accordingly from the date of his appointment, with arrears and consequential benefits.

8. Aggrieved by the judgement of the Single Judge, Respondent - Employer preferred LPA No. 269 of 2012. The said LPA was initially dismissed in default on 05.02.2015, however, later restored on 03.09.2015 upon condonation of delay.

9. Vide impugned judgment dated 30.03.2022, the Division Bench of the High Court allowed the intra-court appeal and set aside the

judgement of the learned Single Judge. Relevant paragraphs of the impugned judgement are reproduced as under –

“8.in the said order except recording the stand taken by the respondent No.1 which was primarily based on the order passed in CWJC No. 12301 of 2004 and “Nagendra Sahani and others v. State of Bihar and others” we do not find any reference as regards objection taken by the State of Jharkhand. From the counter-affidavit filed before the writ Court records of which are attached along with the present Letters Patent Appeal, we find that the representation made by the respondent was rejected by the department of industries vide letter dated 13th September 2004, however, the said order was not impugned in WP(S) No. 5743 of 2005. We further observe that the writ petitioner after more than 20 years of entering into the service claimed the benefit from the date of appointment and, therefore, the writ petition suffered from inordinate delay for which there was no explanation offered by the respondent No.1 before the writ Court. The direction issued by the writ Court to grant pay scale of Rs.1600-2780/- to the respondent No.1, that is, from the year 1992 is wholly wrong as the order has been passed without taking into consideration the cascading effect that the said order may have on the entire cadre.

9. We further find that the respondent decided to approach this Court only after the judgment was delivered in CWJC No. 12301 of 2004 and “Nagendra Sahani and others v. State of Bihar and others”. The orders passed by the Hon'ble Patna High Court may have persuasive value when a similar issue is dealt with by this Court, but then, there would be several other considerations which would weigh with the Court while making a final decision in the case, such as, whether the matter pertains to some policy decision of the State of Jharkhand.

10. For the aforesaid reasons, order dated 14th December 2011 passed in WP(S) No. 5743 of 2005 is set-aside.”

10. The Division Bench reasoned that the writ petition suffered from inordinate delay of 20 Years after the respondent's initial appointment, the learned Single Judge's judgment had not addressed the objections taken by Respondent-Employer in the Counter

Affidavit, and that the relief granted could have a cascading effect on the entire cadre. It was also observed that the judgment of High Court of Patna in **Nagendra** (Supra) may have a persuasive value when a similar issue is involved, however, several other considerations would also have to be weighed in while making a final decision in a case involving policy decisions of the State.

ARGUMENTS ADVANCED BY THE APPELLANT - EMPLOYEE

11. Learned counsel for the Appellant – Employee, Mr. S.S. Pandey, contended that the Appellant’s case is squarely covered by the judgment of the Patna High Court in **Nagendra Sahani** (Supra) and **Alakh Kumar Sinha** (Supra), wherein it was held that all 16 categories of posts arising from the same recruitment process were entitled to the higher revised pay scale of ₹1600–2780 with effect from 01.01.1986. Additionally, it was held therein that similarly situated persons need not individually approach the Court for the same relief. To buttress the said argument, he relied on the judgement of this Court in **Suprita Chandel v. Union of India**⁴.

12. It was urged that the Appellant, being identically placed, was entitled to parity in pay scale from the date of his appointment.

⁴ 2024 SCC OnLine SC 3664

Reliance was also placed on the recommendations of the Fitment Appellate Committee headed by Hon'ble Mr. Justice (Retd.) Aftab Alam, which recommended uniform revised pay scale for all 16 posts. It was submitted that the rejection of the Appellant's representation on 13.09.2004 was arbitrary and contrary to the law laid down in ***Nagendra Sahani*** (Supra). Moreover, the claim did not suffer from delay or laches inasmuch as the right to parity in pay scale is a continuing cause of action, and in any case, similarly situated employees had already been granted such benefits. The counsel emphasized that the Division Bench erred in observing that there was a delay of 20 years and ignoring the binding effect of the earlier judgments while setting aside the well-reasoned judgement of the learned Single Judge.

ARGUMENTS ADVANCED BY THE RESPONDENT - EMPLOYER

13. Learned Counsel for the Respondent - Employer, Mr. Kumar Anurag Singh, supported the impugned judgment of the Division Bench, contending that the Appellant had approached the Court after an inordinate and unexplained delay of over two decades from the date of his appointment in 1992, seeking retrospective monetary

benefits from the said date. It was urged that such belated claims, if allowed, would have a cascading financial repercussion on the entire cadre and upset the settled position of service benefits. It was submitted that the ***Nagendra Sahani*** (Supra) judgment of the Patna High Court, delivered in a different factual context and against the State of Bihar, could at best have persuasive value, and could not be automatically applied to the State of Jharkhand without examining relevant policy considerations. It was also pointed out that the rejection of the Appellant's representation in 2004 was never challenged in the writ petition, and thus had attained finality. The counsel contended that the learned Single Judge overlooked these objections and granted relief without considering the State's stand or the potential administrative repercussions, which was rightly interfered with by the Division Bench.

ANALYSIS AND FINDINGS

14. We have given our thoughtful consideration to the rival submissions and examined the record in detail. The central issue for determination is *whether the Appellant, appointed as Industries Extension Officer pursuant to a common competitive examination in the year 1981 and allocated to the State of Jharkhand upon state*

reorganization in the year 2001, is entitled to removal of anomalies in his pay scale from the date of his appointment, on parity with other similarly situated employees and, whether the Division Bench was justified in reversing the Single Judge's judgement which granted such relief?

15. The order impugned was passed mainly on the ground that except for recording the stand taken by employee, which was primarily founded upon the decision **Nagendra Sahani** (Supra), there is no reference therein to any of the objections raised by the Respondent - Employer. It also weighed to the mind of Division Bench that the representation of the Appellant had, in fact, been rejected by the Department of Industries vide letter dated 13th September 2004, however, the said rejection order was never assailed in WP(S) No. 5743 of 2005. The Appellant approached the writ court after a lapse of more than two decades from the date of initial appointment, seeking benefits retrospectively from that very date, without offering any explanation for the inordinate delay. Consequently, the writ petition was clearly hit by laches. It was also observed that the respondent approached this Court only after the pronouncement of **Nagendra Sahani** (supra) and, while the decisions of the Patna High

Court may have persuasive value, they are not binding precedents on the Jharkhand High Court, particularly when the controversy concerns a policy decision of the State of Jharkhand.

16. In view of the foregoing, the main issue raised in the present appeal may be examined with ancillary issues i.e., *whether the judgment of the Patna High Court in **Nagendra Sahani** (Supra), as affirmed in subsequent proceedings, was binding upon the State of Jharkhand in respect of present Appellant-Employee allocated to it under the Bihar Re-organization Act, 2000? And whether the Appellant's writ petition was liable to be dismissed on account of delay and laches?*

17. The first question that arises for consideration is whether the judgment in **Nagendra Sahani** (Supra) would be binding upon the State of Jharkhand in respect of employees who were originally appointed by the State of Bihar but subsequently allocated to Jharkhand under the Bihar Reorganisation Act, 2000. In this respect, Section 34 of the Bihar Reorganisation Act, 2000 assumes significance, which is reproduced as thus –

34. Transfer of proceedings from High Court at Patna to High Court of Jharkhand.— (1) Except as hereinafter provided, the High

Court at Patna shall, as from the appointed day, have no jurisdiction in respect of the transferred territory.

(2) *Such proceedings pending in the High Court at Patna immediately before the appointed day as are certified, whether before or after that day, by the Chief Justice of the High Court, having regard to the places of accrual of the cause of action and both other circumstances, to be proceedings which are ought to be heard and decided by the High Court of Jharkhand shall as soon as may be after such certification, be transferred to the High Court of Jharkhand.*

(3) *Notwithstanding anything contained in sub-sections (1) and (2) of this section or in section 27, but save as hereinafter provided, the High Court at Patna shall have, and the High Court of Jharkhand shall not have, jurisdiction to entertain, hear or dispose of appeals, applications for leave to appeal to the Supreme Court, applications for review and other proceedings where any such proceedings seek any relief in respect of any order passed by the High Court at Patna before the appointed day:*

Provided that if after such proceedings have been entertained by the High Court at Patna, it appears to the Chief Justice of the High Court that they ought to be transferred to the High Court of Jharkhand, he shall order that they shall be so transferred, and such proceedings shall thereupon be transferred accordingly.

(4) *Any order made by the High Court at Patna—*

(a) *before the appointed day, in any proceeding to the High Court of Jharkhand by virtue of sub-section (2), or*

(b) *in any proceedings with respect to which the High Court at Patna retains jurisdiction by virtue of sub-section (3) shall for all purposes have effect, not only as an order of the High Court at Patna, but also as an order made by the High Court of Jharkhand.*

18. It is apparent that Section 34 of Bihar Re-organization Act, 2000 provides for procedure to be adopted while transferring the proceedings from High Court at Patna to High Court of Jharkhand. Section 34(1) provides that the High Court at Patna would have no

jurisdiction in respect of the transferred territory with effect from the appointed day, subject to certain exceptions. Section 34(2) empowers the Chief Justice of the High Court at Patna to certify and transfer pending proceedings to the High Court of Jharkhand having regard to the place of accrual of cause of action and other circumstances. Section 34(3) creates exceptions preserving the jurisdiction of the High Court at Patna to deal with appeals, applications for leave to appeal, review applications, and other proceedings seeking relief in respect of orders passed by it before the appointed day, though even such proceedings could be transferred to the High Court of Jharkhand if the Chief Justice so directed.

19. Most significantly, Section 34(4) provides for the dual effect of orders passed by the High Court at Patna. It stipulates that any order made by the High Court at Patna, whether before the appointed day in proceedings subsequently transferred to the High Court of Jharkhand under sub-section (2), or in proceedings with respect to which the High Court at Patna retained jurisdiction under sub-section (3) *"shall for all purposes have effect, not only as an order of the High Court at Patna, but also as an order made by the High Court of Jharkhand."*

20. The legislative intent behind this provision was to ensure continuity of judicial authority and prevent any vacuum arising from the re-organisation of the State. As a corollary, the deeming provision under Section 34(4) operates to treat those judgments or orders as those of the High Court of Jharkhand, entitled to the same respect, obedience, and implementation as any order passed by the High Court of Jharkhand.

21. This deeming provision is of seminal importance to the present case. The judgment in **Nagendra Sahani** (supra), though rendered by the High Court at Patna on 22.09.1993 i.e., before the State re-organization, nonetheless, it must be treated by virtue of Section 34(4) as binding precedent of the High Court of Jharkhand.

22. From perusal of the impugned order, it appears that this aspect of law was not taken into account by the Division Bench. Once the provision of law deems that all the orders and judgements of the High Court of Patna shall have same effect as an order passed by Jharkhand High Court, the Division Bench had limited options qua manner in which it could have treated the judgement in **Nagendra Sahani** (Supra) - *one*, to follow the said judgement as a binding precedent or, *two*, in case it considered the said judgement to be bad

in eyes of law, it could have referred the said matter to a larger bench for further adjudication. This position of law is also reflected by a recent judgement of this court in **Mary Pushpam v. Telvi** **Curusumary**⁵, wherein it was observed as thus –

“1. The rule of “Judicial Discipline and Propriety” and the doctrine of precedents has a merit of promoting certainty and consistency in judicial decisions providing assurance to individuals as to the consequences of their actions. The Constitution Benches of this Court have time and again reiterated the rules emerging from judicial discipline. Accordingly, when a decision of a coordinate Bench of the same High Court is brought to the notice of the Bench, it is to be respected and is binding subject to right of the Bench of such co-equal quorum to take a different view and refer the question to a larger Bench. It is the only course of action open to a Bench of co-equal strength, when faced with the previous decision taken by a Bench with same strength.”
(emphasis supplied)

23. In other words, the Division Bench could not have ignored the ratio of **Nagendra Sahani** (Supra) while stating it to have merely a persuasive value. Once it is established that the factual matrix is identical and the legal issue involved is the same, the principle of judicial discipline demands that similar relief be granted to similarly situated persons.

24. The next question is whether the writ petition filed by the Appellant in the year 2005 suffered from delay and laches, having been instituted approximately 13 years after his appointment in the

⁵ (2024) 3 SCC 224

years 1992. It is well-established that in matters involving pay scale parity based on removal of anomalies, the cause of action continues from month to month as long as the anomaly persists. Every month when the employee receives lesser pay than his similarly situated counterparts constitutes a fresh cause of action. In **M.R. Gupta v. Union of India**⁶, while adjudicating on the issue of whether claim of correct pay-fixation was barred by delay and limitation, this court observed as follows –

“6. The Tribunal misdirected itself when it treated the appellant's claim as “one time action” meaning thereby that it was not a continuing wrong based on a recurring cause of action. The claim to be paid the correct salary computed on the basis of proper pay fixation, is a right which subsists during the entire tenure of service and can be exercised at the time of each payment of the salary when the employee is entitled to salary computed correctly in accordance with the rules. This right of a government servant to be paid the correct salary throughout his tenure according to computation made in accordance with the rules, is akin to the right of redemption which is an incident of a subsisting mortgage and subsists so long as the mortgage itself subsists, unless the equity of redemption is extinguished. It is settled that the right of redemption is of this kind. (See Thota China Subba Rao v. Mattapalli Raju [AIR 1950 FC 1 : 1949 FCR 484 : 50 Bom LR 181 : (1950) 1 MLJ 752]).”(emphasis supplied)

25. In the present case, Appellant filed writ petition before High Court praying for issuance of an appropriate writ to the Respondent-Employer to grant him pay scale as genuine in place of anomaly in pay scale in parity with other similarly situated persons. Therefore,

⁶ (1995) 5 SCC 628

the claim having a continuous cause of action, the plea of limitation or laches cannot be sustained in this case.

26. Furthermore, the Appellant had made representations to the employer on 01.04.2001 and 27.04.2002, which were rejected only on 13.09.2004. The writ petition was filed on 30.09.2005, within a reasonable time after the rejection of his representations. While observing that the writ-petitioner claimed the benefits after 20 years of entering into service, the Division Bench failed to appreciate that the Appellant was not sleeping over his rights but was pursuing the remedies available to him through appropriate representations before approaching the Court.

27. Additionally, we also note that the respondents did not produce any material on record to show that the case of the present Appellant is different from those with whom he seeks parity. Therefore, when other similarly situated employees have already been granted the benefit through judicial pronouncement, it would be grossly unjust to deny the same relief to the Appellant. This conclusion is further substantiated by judgement in ***Suprita Chandel*** (Supra), wherein this court observed as thus -

“14. *It is a well settled principle of law that where a citizen aggrieved by an action of the government department has approached*

the court and obtained a declaration of law in his/her favour, others similarly situated ought to be extended the benefit without the need for them to go to court. [See Amrit Lal Berry v. Collector of Central Excise, New Delhi, (1975) 4 SCC 714]"

28. The principle laid down is that similarly situated persons should be extended the benefit of judicial declarations without approaching the court individually finds full application in the present case. To hold otherwise would be to encourage multiplicity of litigation and deny the beneficial effect of judicial pronouncements to those who are entitled to it.

29. The Division Bench, in our considered view, erred in failing to appreciate the binding nature of the **Nagendra Sahani** (Supra) judgment on identically placed employees while also erroneously applying the doctrine of delay and laches to a continuing cause of action. Moreover, it gave undue weightage to financial considerations while ignoring constitutional principles and failed to examine the merits of the case and the recommendations of various committees that had acknowledged the anomaly. The judgment of the learned Single Judge, on the other hand, correctly applied the ratio of **Nagendra Sahani** (Supra) to the Appellant's case and granted appropriate relief. The Division Bench's interference with such well-reasoned judgment was unwarranted and legally unsustainable.

CONCLUSION

30. In view of the foregoing detailed discussion, we are of the considered opinion that the principle of equality enshrined in Article 14 of the Constitution of India, 1950 brooks no discrimination between persons who are similarly situated, and any differential treatment must be based on intelligible differentia having a rational nexus with the object sought to be achieved. In the present case, it is undisputed that the Appellant was appointed pursuant to the same competitive examination as other employees who have been granted the higher pay scale on basis of the recommendations of the Fitment Committee, Fitment Appellate Committee and directions in ***Nagendra Sahani*** (Supra). The allocation of all the similarly placed persons along with the Appellant to different departments was purely administrative and did not involve any merit-based selection or differentiation in qualifications although their selection was based on a Common Examination.

31. The statutory provisions of the Bihar Reorganisation Act, 2000, particularly Section 34(4), mandate that judicial orders of the Patna High Court continue to bind the Successor State. The judgment in ***Nagendra Sahani*** (Supra), which granted identical relief to similarly

situated employees inducted through a common recruitment process that took place in erstwhile Bihar, therefore has binding effect to an employee of the same recruitment allocated to the State of Jharkhand in respect of the Appellant.

32. The plea of delay and laches cannot be sustained in a case involving continuing violation of rights that too in the light of the nature of directions issued in rem. The Appellant's consistent pursuit of his claim through representations and the timely filing of the writ petition after their rejection shows that he was not sleeping over his rights. Moreover, financial implications and administrative convenience cannot override constitutional guarantees against arbitrary discrimination. The State, being the model employer, cannot plead its own inefficiency or negligence to deny legitimate rights to its employees. The recommendations of various committees acknowledging the anomaly only reinforces the constitutional obligation to remove the discrimination.

33. Accordingly, we allow this appeal and set aside the impugned judgment of the Division Bench dated 30.03.2022, restoring the judgment of the learned Single Judge dated 14.12.2011. The directions as contained in the judgement of the learned Single Judge

be now complied within three months from the date of this judgement. The appellant is also entitled to the cost of litigation as per rules.

34. Pending application(s), if any, shall stand disposed of.

.....J.
(J.K. MAHESHWARI)

.....J.
(VIJAY BISHNOI)

**NEW DELHI;
DECEMBER 16, 2025.**