

WA 702/2002

BEFORE

THE HON'BLE MR JUSTICE D. BISWAS, CHIEF JUSTICE (ACTING)

THE HON'BLE MR. JUSTICE B.D. AGARWAL

IN THE GAUHATI HIGH COURT

(The High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram and Arunachal Pradesh )

WRIT APPEAL NO. 702 OF 2002

Dr. Phani Dhar Mishra,  
Special Officer (Translation Wing)  
Principal Seat, Gauhati High Court,  
Guwahati - 1.

& & APPELLANT  
-Versus-

1. The State of Assam, represented  
by its Chief Secretary, Dispur,  
Guwahati - 6.

2. The Gauhati High Court,  
represented by its Registrar General,  
Guwahati - 1.

3. The Secretary to the Government  
of Assam, Judicial Department,  
Dispur, Guwahati - 6.

4. The Secretary to the Government  
of Assam, Department of Finance,  
Dispur, Guwahati - 6.

& & RESPONDENTS

P R E S E N T

HON'BLE MR. JUSTICE D. BISWAS, CHIEF JUSTICE (ACTG.)

THE HON'BLE MR. JUSTICE B.D. AGARWAL

For the Appellant : Mr. U.K. Nair,  
Advocate.

For the respondents : Mrs. B. Goyal,  
Govt. Advocate, Assam

Date of hearing : 31.01.2007

Date of Judgment and : 31.01.2007  
Order

JUDGMENT AND ORDER

(Oral)

By D. Biswas, CJ (Actg.)

This appeal is directed against the judgment dated 8.10.2002 passed in W.P.(C) No.6599/2002 whereby the learned Single Judge dismissed the writ petition filed by the appellant for fixation of pay/grant of special pay as per scheme prepared in pursuance of the judgment dated 22.8.1991 passed by a Division Bench of this Court in Civil Rule No.1380 of 1988.

2. It may be mentioned herein that in pursuance of the Judgment in the aforesaid Civil Rule, the Registry forwarded a proposal to the State Government for giving enhanced pay scale to the officers in the Translation Wing of the High Court. The said scheme was forwarded to the State Government with approval of the Chief Justice. Mr. Nair submits that though some of the proposals were accepted upon by the State Government, the proposal for payment of higher pay scale was turned down for want of clearance from the Finance Department. According to Mr. Nair, learned counsel, the State Government should not have rejected the proposal of the High Court transmitted with recommendation of the Chief Justice merely on the ground that the Finance Department refused to accord sanction to the proposal. According to Mr. Nair, as provided in Article 229 of the Constitution and the interpretation thereof by the Hon'ble Supreme Court in Supreme Court Employees' Welfare Association, Petitioner -Versus- Union of India and another, Respondents reported in 1989(4) SCC 197, particularly in paras 56 and 57, acceptance or rejection of a proposal forwarded by the High Court with approval of the Chief Justice ought to have been preceded by exchange of views between the Governor and the Chief Justice.

3. Mrs. B. Goel, learned State Counsel submits that the scheme was prepared long back and by now the pay scale of the State Government Employees including the High Court Officers and Staffs have been revised twice and, therefore, the scheme prepared in the year 1991 may not be of any relevance as of today.

4. Having regard to the submissions of the learned counsel for the parties, we dispose of this appeal with direction to the Registrar General to examine the matter and initiate fresh proposal, if considered necessary in the present circumstances, with approval of the Chief Justice for consideration of the State Government in accordance with the provisions in Article 229 and the observation of the Hon'ble Supreme Court in paras - 56 and 57 of the judgment in Supreme Court Employees' Welfare Association (supra). In view of this order, earlier communications by the State Government will not be a constraint for reconsideration afresh.