

HIGH COURT OF MADHYA PRADESH : BENCH AT INDORE
SINGLE BENCH : HON'BLE SHRI JUSTICE S.C. SHARMA

W.P. No.6859 of 2006

Rajendra Kumar Agrawal
Vs.
State of M.P. and others.

W.P. No.2618 of 2006

Smt. Kiran Upadhyaya & Ors.
Vs.
State of M.P. and others.

W.P. No.1513 of 2005

Subhash Chandra
Vs.
State of M.P. and others.

W.P. No.1514 of 2005

Rajendra Kumar
Vs.
State of M.P. and others.

W.P. No.1851 of 2005

Balchand Sorada
Vs.
State of M.P. and others.

W.P. No.3788 of 2005

Vijay Mandlik
Vs.
State of M.P. and others.

W.P. No.763 of 2006

Arasad Khan
Vs.
State of M.P. and others.

W.P. No.764 of 2006

Bhanwarilal (Amarlal) Menariya
Vs.
State of M.P. and others.

W.P. No.2447 of 2006

Mohammad Ahmed Khan
Vs.
State of M.P. and others.

W.P. No.2488 of 2006

Yogendra Dev & Ors.
Vs.
State of M.P. and others.

W.P. No.2514 of 2006

Kartik Gade
Vs.
State of M.P. and others.

W.P. No.2519 of 2006

Smt. Premlata Tiwari
Vs.
State of M.P. and others.

W.P. No.2595 of 2006

Babulal Chouhan & Ors.

Vs.
State of M.P. and others.

W.P. No.2619 of 2006

O.P. Lashkari
Vs.
State of M.P. and others.

W.P. No.2620 of 2006

Phoolchand Jain
Vs.
State of M.P. and others.

W.P. No.2621 of 2006

Smt. Shobha Jadhav & Ors.
Vs.
State of M.P. and others.

W.P. No.2643 of 2006

Surendra Singh
Vs.
State of M.P. and others.

W.P. No.2709 of 2006

Rachana Agnihotri
Vs.
State of M.P. and others.

W.P. No.2710 of 2006

Kailash Goyal
Vs.
State of M.P. and others.

W.P. No.2753 of 2006

Ashok Kumar Trivedi
Vs.
State of M.P. and others.

W.P. No.2754 of 2006

Shivnarayan Vyas
Vs.
State of M.P. and others.

W.P. No.2764 of 2006

Narayan Kumar Bhagat & Anr.
Vs.
State of M.P. and others.

W.P. No.2765 of 2006

Rajendra Yarde
Vs.
State of M.P. and others.

W.P. No.3091 of 2006

Rajendra Kumar Navin & Ors.
Vs.
State of M.P. and others.

W.P. No.3216 of 2006

Smt. Ambika Shahi & Ors.
Vs.
State of M.P. and others.

W.P. No.3217 of 2006

Neeta Laghate & Ors.
Vs.
State of M.P. and others.

W.P. No.3219 of 2006

Daljeet Kaur
Vs.
State of M.P. and others.

W.P. No.3220 of 2006

Sanjay Kumar Kajre
Vs.
State of M.P. and others.

W.P. No.3231 of 2006

Sudhakar Kakirde
Vs.
State of M.P. and others.

W.P. No.3554 of 2006

Smt. Pushpa Sirsat
Vs.
State of M.P. and others.

W.P. No. 3585 of 2006

Smt. Vimal Kamle
Vs.
State of M.P. and others.

W.P. No.3753 of 2006

Ajay Kumar Singh
Vs.
State of M.P. and others.

W.P. No.3790 of 2006

Kishanlal Mathe

Vs.
State of M.P. and others.

W.P. No.4401 of 2006

Kaushlendra Singh Chohan
Vs.
State of M.P. and others.

W.P. No.5129 of 2006

Amit Chouhan
Vs.
State of M.P. and others.

W.P. No.5130 of 2006

Vikas Jarwal
Vs.
State of M.P. and others.

W.P. No.5384 of 2006

Rameshwar Vijayvargiya
Vs.
State of M.P. and others.

W.P. No.5387 of 2006

Balwant Singh Bais
Vs.
State of M.P. and others.

W.P. No.6498 of 2006

Jaywant Rao Alhate
Vs.
State of M.P. and others.

W.P. No.6499 of 2006

Ashok Choudhary
Vs.
State of M.P. and others.

W.P. No.6500 of 2006

Uday Singh Kushwah
Vs.
State of M.P. and others.

W.P. No.6617 of 2006

Badri Prasad Sharma
Vs.
State of M.P. and others.

W.P. No.6854 of 2006

Subhash Singh Chouhan
Vs.
State of M.P. and others.

W.P. No.6855 of 2006

Ku. Rajshri Gurung
Vs.
State of M.P. and others.

W.P. No.6857 of 2006

Subhash Chandra Agrawal
Vs.
State of M.P. and others.

W.P. No.7141 of 2006

Mubarik Seikh
Vs.
State of M.P. and others.

W.P. No.7269 of 2006

Shiv Singh
Vs.
State of M.P. and others.

W.P. No.7347 of 2006

Ashok Kumar Kumawat
Vs.
State of M.P. and others.

W.P. No.7372 of 2006

Jagdish Kumar Tiwari
Vs.
State of M.P. and others.

W.P. No.7526 of 2006

Ku. Kavita Kute
Vs.
State of M.P. and others.

W.P. No.1035 of 2007

Laxmikant Joshi
Vs.
State of M.P. and others.

W.P. No.1036 of 2007

Mr. Santosh Pathrod
Vs.
State of M.P. and others.

W.P. No.3113 of 2007

Smt. Pushpa Panwar

Vs.
State of M.P. and others.

W.P. No.3115 of 2007

Satyaram Pal
Vs.
State of M.P. and others.

W.P. No.6868 of 2007

Dr. Anil Kumar Junwal
Vs.
State of M.P. and others.

W.P. No.12066 of 2010

Pramod Kumar Dubey & Ors.
Vs.
State of M.P. and others.

W.P. No.12449 of 2010

Vishnu G. Verma
Vs.
State of M.P. and others.

Parties through their counsel.

ORDER
(Passed on this 12th Day of May, 2011)

Regard being had to the similar controversy involved in these bunch of cases, they have been heard analogously together with the consent of the parties and a common order is being passed in the matter. Facts of writ petition No.6859/06 are narrated as under:

2. The petitioner before this Court, who is serving as Sub-Inspector (M) under the Home Department of State of M.P., has filed this present petition being aggrieved by an order dated 28.10.2006 (P-11) passed by the respondents in the matter of pay-fixation of the petitioner and is also aggrieved by an order dated 07.10.2006 by which a recovery of the arrears consequent to the pay-fixation has been directed by the respondents. The contention of the petitioner is that he was appointed as LDC on 03.09.1982 and has submitted his joining on the post of LDC on 08.09.1982. The petitioner has further stated that he was later on promoted to the post of Sub-Inspector (M) and the State Government took a policy decision on 05.11.1967 for conferral of the Executive (Police) Ranks to all the Ministerial staff of the Police Department. The petitioner has further stated that by virtue of the aforesaid policy decision, the respondents in exercise of the powers conferred under Section 2 of the Police Regulation, 1861 have created new Police ranks (Ministerial) in the State Police Force with retrospective effect. The petitioner has further stated that on the basis of a memorandum dated 05.11.1967, the petitioner was given the benefit of Rs.70/- as an adhoc increase w.e.f. 26/28.06.1979 and the aforesaid adhoc increase of the pay was not taken into account by the respondents while revising the pay of the petitioner w.e.f. 01.04.1981 by virtue of M.P. Revision of Pay Rules, 1983. The petitioner has further stated that one Sharad Belapurkar came up before this Court by filing a writ petition and the same was registered as M.P. No.851/83. This Court vide order dated 06.03.1986 has allowed the writ petition and it was held that A.S.I. (M) shall

be entitled for additional salary which they were receiving earlier and any deduction made by the respondents therein was also directed to be refunded. The petitioner has further stated that a S.L.P. was also preferred by the State Government and the same was also dismissed by the Hon'ble Supreme Court on 22.09.1986. The petitioner has further stated that thereafter, one Mr. P.N. Tripathi has preferred an original application and the same was registered as O.A. No.165/94 before the M.P. State Administrative Tribunal, which was also allowed on 15.01.1998. The petitioner has further stated that in the light of the judgments dated 06.03.1986 and dated 15.01.1998, the benefit of additional pay was extended by the respondents to the Constables (M), Head Constables (M), A.S.I. (M), S.I. (M) and the same was also extended to the petitioner. The petitioner has further stated that an order was issued later on on 28.08.2000 and again an order was issued on 12.02.2001 wherein it was mentioned that the earlier order in respect of the pay-fixation dated 28.08.2000 has been stayed. On 22.02.2001, the respondent No.1 has issued a letter stating therein that the order dated 28.08.2000 has been cancelled. The petitioner has further stated that one Mrs. Padma Patankar and 17 others came up before M.P. State Administrative Tribunal by filing an Original Application No.498/01 and the same was transferred to this Court and the same was registered as W.P. No.8108/03. The aforesaid writ petition was allowed and the order dated 22.02.2001 was set aside and the respondents were directed to work out the arrears payable to the petitioners and to make payment to them accordingly. The petitioner has further stated that for grant of same relief

he has preferred a W.P. (s) No.1514/05 and the respondents therein have informed this Court that they have already granted the benefit to the petitioner and the writ petition was disposed of keeping in view the fact that the benefit has been granted to the petitioner vide order dated 10.08.2004. The petitioner has further stated that thereafter, an order was issued on 07.06.2005 by granting a benefit of Rs.70/- per month in the pay-scale of Chaudhary Pay Commission and the petitioner was paid accordingly keeping in view the provisions of M.P. Revision of Pay Rules, 1981 and was granted corresponding revised pay-scale by taking into account the additional pay of Rs.70/- per month. The petitioner has further stated that on 28.10.2006, an order was issued cancelling earlier order dated 07.06.2005 meaning thereby the benefit of additional pay of Rs.70/- was withdrawn and a recovery was also ordered by the impugned order. The petitioner has filed this present petition being aggrieved by the order dated 28.10.2006 as well as the order dated 07.10.2006 by the which the benefit of special pay of Rs.70/- has been withdrawn and a recovery has also been ordered. Learned counsel for the petitioner has fairly stated before this Court that in the case of Smt. Sushma Tiwari and in other identical matters, writ petitions were dismissed upholding the withdrawal of special pay and upholding the recovery and a large number of writ appeals were preferred before this Court and finally, the Division Bench of this Court at Principal Seat has decided all such writ appeals involving the same issue. The learned counsel for the petitioner has informed this Court in the case of **Smt. Sushma Tiwari and others Vs. State of M.P.**

and others and in other identical matter vide order dated 21.04.2011, the action of the respondents/State has been upheld.

The order passed by the Division Bench of this Court in the aforesaid case from paragraph No.5 onwards read as under;-

“5. Learned counsel for the appellants submitted:-

(i) that the learned Single Judge erred in not considering the memorandum of the Government of M.P. (Home), Police Department dated 5.11.1967 Annexure A/1 in proper perspective. After coming into force of such an order, all the employees of the ministerial cadre were placed in new police rank in the State Police Force with effect from 1.3.1967 in accordance with appended schedule though with certain condition. That after the ranks assigned to ministerial staff of police department, employees were entitled to get revised their pay-scale after coming into force of rules namely M.P. Revision of Pay Rules, 1983 with effect from 1.4.1981.

(ii) He has referred definition clauses 2(5)(d)(g)(h) and rule 3, drawn attention of this Court to Annexure-2 in support of his contention that by order dated 28.8.2000, adequate pay-scale was allowed to the employees of the ministerial cadre and by order dated 25.3.2006, such benefit has been wrongly taken back.

(iii) That the controversy in the case was already settled in Sharad Baburao Belapurkar Vs. State of M.P. and others Misc.Petition No.851/1983 decided on 6.3.1986, in which learned single judge of this Court found such entitlement of the appellants but the learned Single Judge erred in not following the law laid down in Sharad Baburao Belapurkar (supra).

(iv) That the State Government inspite of getting opportunity to file documents has not filed any document in respect of the pay-scale sanctioned by the State Government of the ministerial employees, in absence of which, all the appellants were entitled to get benefit of the pay-scale as per the Rules of 1983.

(v) That Annexure-1 of the said Rule was wrongly applied in respect of the appellants while they were entitled to get the pay-scale as per Annexure 2B of the said Rule.

Stating aforesaid, it was submitted by Shri Trivedi that these petitions may be allowed, order passed by the learned single judge may be set aside and orders dated 25.3.2006 and 22.7.2006 may be quashed.

6. Shri R.D.Jain, learned Advocate General supported the order passed by the the learned Single Judge. He has clarified the position by stating the facts thus:-

(a) the order dated 28.8.2000 was issued in compliance of the order passed by the M.P. State Administrative Tribunal in Original Application No.45/98 **Krishna Gopal Vs. State of M.P & others** dated 1.1.2000. Thereafter, various matters were decided in the light of order in Krishna Gopal (supra) while the said order was already reviewed by the M.P. Administrative Tribunal Bhopal Bench in Misc.Application No.218/01 dated 17.11.2001 and the

position was made clear. But it appears that the order passed in M.A.No.218/01 was not brought into the notice of the Tribunal and also the High Court so various matters were decided in the light of order dt.1.1.2000 in O.A.No.45/98. Thereafter when the matter came into notice of the State, the order dated 23.5.2006 was passed and the order dated 17.11.2001 was given effect to. The Ministerial Staff of the police department was not entitled for the same pay-scale which was made applicable by order dt. 28.8.2000.

(b) He has referred various provisions under the M.P. Revision of Pay Rules, 1983, Schedule-I and II of the said Rules in support of his contention.

(c) Shri Jain also submitted that the appellants herein are wrongly interpreting order of the State Government dated 5.11.1967. By the aforesaid order, though a police rank (ministerial) in the State Police Force was created with effect from 1.3.1967, but emolument of the ministerial staff continued the same with certain conditions. As various posts of ministerial staff of the Police Department were changed in police rank (ministerial) but the payscale of the posts remained same and there was no change which is apparent from the perusal of order dt. 5.11.1967. That so far as adhoc increment to the employees of the ministerial cadre is concerned, that was not to be included at the time of revision of pay-scale. However, after revision of pay-scale, the employees were granted with the same adhoc increment. It was also submitted by Shri Jain that the recruitment process for executive cadre is entirely different. Their qualifications, training and the duties are also different, while recruitment of ministerial staff is entirely on different footing. They are not required for training and their duties are also different.

(d) So far as the recovery of the excess amount paid to the appellants is concerned, it was submitted that the appellants herein were not entitled for the same so it has been rightly directed to be recovered.

(e) That the recruitment of the ministerial staff is still governed by the M.P. Police Regulations and the instructions issued time to time by the State Government, while recruitment of the executive staff is governed by the statutory Rules namely Madhya Pradesh Police Executive (Non-Gazetted) Service Recruitment Rules, 1996. Qualifications, training and duties assigned to both cadres are different and accordingly their pay-scales are also different. It is submitted that the circular which has been relied on by the appellants/petitioners Annexure A/1 dated 5.11.1967 does not support the contention of the appellants/petitioners rather makes the position clear. Thereafter, various Pay Commissions also made the provisions for different pay-scales for the both cadres.

(f) So far as the recovery under the order is concerned, it is submitted that wrong payments were made to the petitioners and the petitioners are not entitled to retain the same. He has placed reliance to the Apex Court's judgments in State of Karnataka and another Vs. Mangalore University Non-Teaching Employees Association & others (2002) 3SCC 302 and Syed Abdul Qadir & others Vs. State of Bihar & others (2009) 3 SCC 475.

7. To appreciate the rival contentions of the parties, it would be appropriate if the order passed by the learned Single Judge is referred. The learned Single Judge in para 15 of the order, considering para 8 of the order of the Tribunal in the review application, held thus:-

“.....that the State Government has specifically directed that all the employees were entitled for the fixation of their basic pay in the corresponding revised pay scale w.e.f. 1.4.1981. Then, the corresponding revised pay scale w.e.f. 1.4.1981 has to be understood. To ascertain the same it has to be seen that before 1.4.1981 the employees i.e. the petitioners were in which pay scale and the corresponding revision of that pay scale would be the revised pay scale in which the basic pay of the petitioners has to be fixed while counting Rs.70/- in terms of Rule 7 of the M.P. Revision of Pay Rules, 1983. What happened in this case is that while counting the adhoc increase in the pay scale existing prior to 1.4.1981 whatever the basic came, on that basic, rather than giving the corresponding revised pay scale, the next higher pay scale was given which was impermissible under the M.P. Revision of Pay Rules, 1990, which was prescribed for Executive cadre. The Tribunal in para-8 of the judgment passed in review and after considering the same in detail the Tribunal clarified its earlier order and came to conclusion that the benefit shall be given under the revised pay scale then the Tribunal while passing the order in O.A. No. 45/98 never meant for grant of higher pay scale but what the Tribunal directed was that only in the corresponding pay scale, Rs. 70/- has to be counted for the purposes of arriving at the basic pay. With reference to a Table appended to the Rules, the Tribunal said that it is only a ready reckoner which does not mean that on that basis a next higher pay scale has to be provided. Thus, the Tribunal in clear words has already explained the judgment passed in O.A. No. 45/1998 and further held that the mistake occurred in the judgment stands rectified by giving the direction to the respondents to fix the basic pay in the corresponding revised pay scale w.e.f. 1.4.1981 but it was never intended to provide a subsequent higher pay scale w.e.f. 1.4.1981.”

8. In paras 17, 18 and 19 of the order, the learned Single Judge held thus:-

17. Learned counsels appearing on behalf of the petitioners during the course of argument have not been able to satisfy this Court as to how all the categories of the petitioners were entitled to be given the benefit of the next higher scale of pay to the corresponding revised pay scale of unrevised pay scale. In the absence of any entitlement to the next higher scale of pay the employees such as the petitioners have to be put in the corresponding revised pay scale of the existing pay scale by counting the adhoc increase to fix the basic pay in the corresponding revised pay scale. The State Government also agreed that the adhoc increase shall be counted while fixing the basic pay of the petitioners in the corresponding revised pay scale. Thus, there is no question that the State Government has not granted Rs.70/- for the fixation of the pay of the petitioners in the corresponding revised scale of pay w.e.f. 1.4.1981 under the M.P. Revision of Pay Rules, 1983 made effective from 1.4.1981. Since all the employees wrongly got the benefit of higher pay scale to which they

were not entitled to but they were only entitled to the benefit of the corresponding revised pay scale from 1.4.1981, therefore, as a necessary corollary the recoveries have also been effected.

18. On the basis of the discussion, as aforesaid, the matter with regard to the corresponding revised pay scale has already been dealt with by the Tribunal and ultimately when the final judgment was passed by the Tribunal while deciding the review in operative portion of the judgment passed by the Tribunal i.e. para-10 puts the controversy at rest and para-10 is herein below:-

“In view of the aforesaid discussion and looking to the special circumstances of the case the delay in filing the present petition is condoned so that no unintended financial benefit may pass to any person and the cause of substantial justice is advanced and it is further directed that in para 8 of the order sought to be reviewed instead of words and figures “revised pay scale as per Table 31” the words “corresponding revised pay scale as applicable to him under the provisions” shall be deemed to have been substituted with effect from the date of passing of the order. The figure and word “7(b)” shall also be deemed to be substituted by the figures and word “7(1)(b)” from the same date.”

19. It is also to be noted that the grant of any higher pay scale than prescribed in the schedule of Rule 7 with regard to the categories of the persons shall also be contrary to Rule 7 and Schedule II attached to the M.P. Revision of Pay Rules, 1990 wherein the specific corresponding revised pay scale of the existing pay scale has been prescribed in which they were prior to 1.4.1981. The petitioners are not entitled to any other pay scale than prescribed under the M.P. Revision of Pay Rules, 1990.

9. The learned Single Judge thereafter considered the case in para 20 of the order in respect of the recovery initiated by the State Government for the amount which was excessively paid to the petitioners and relying on the judgment of the Apex Court in Mangalore University Non-Teaching Employee's Association (supra) found that no prejudice was caused to the petitioners. The learned Single Judge held that the question with regard to the corresponding pay-scale was already decided by the Tribunal that the corresponding revised pay-scale does not mean any higher pay-scale to the corresponding revised pay-scale and considering the fact that the question was already decided with regard to the corresponding revision of pay-scale, therefore, there was no question of there being any prejudice or reasonable possibility of there being any prejudice and in this regard also, the petition was dismissed.

10. Before appreciating the rival contentions of the parties, it would be appropriate to refer affidavit filed by Shri Rajan Katoch, Secretary, State of M.P., Home Department before this Court, in compliance of the order of this Court, in which he has clarified

position and for ready reference his affidavit reads as under:-

“2. That, on the date of formation of the state of Madhya Pradesh i.e. on 01.11.1956 the provisions of Police Act were applicable. At that time the recruitment to the posts of Inspector, Sub-Inspectors, Subedars, Asstt. Sub Inspectors were governed by part III of Police Regulation vide paras 46, 47, 48, 49, 50 & 50A.

3. The appointments on the post of Constables was governed by paras 53, 55, 56, 57, 58 and 59 of Police Regulation.

4. The appointment of orderlies was made under the provisions para 61 of the MPPR.

5. The appointment of Head Clerk, Assistant Clerk, Accountant, Asstt. Accountant, Record Keeper, Daftari etc. were governed by paras No.964, 965, 966, 967, 968, 969 of MPPR. M.P. Police Regulations are framed under the Police Act, 1861, and the Act came into force in old Madhya Pradesh by M.P. Act No.12 of 1950 and was enforced in the entire new Madhya Pradesh by M.P. Act No.23 of 1958.

6. That afterwards in 1965 the rules were published in Police gazette and the appointments to certain Ministerial posts were governed by those rules.

7. That, on 05.11.1967 the ranks were given to ministerial staff and certain ministerial posts were given new police Ranks (Ministerial) for certain purposes. However, they were not equated in ranks.

8. That between 1985 to 1997 the recruitment of the executive posts of Police department was governed by office orders issued on 16.05.1985, 23.12.1994, 02.04.1997 which are already on record. However, they relate to the period which is not in issue. Similarly on 12.5.1997 M.P. Police Executive (Non Gazetted) Service Recruitment Rules, 1997 were enforced which were published in the “Rajpatra” of 19.5.1997.

9. That, the recruitment of Stenographer (M) Assistant Sub-Inspector (M) L.D.C. (M) are governed by G.O.P. no.83 of 1999 issued on 19.2.1999.

10. That as far as the pay scales are concerned, in the year 1959 certain posts of different allocated Govt. servants were unified by the M.P. Unification of Pay Scales and Fixation of Pay and pay on absorption Rules, 1959, and, thereafter report of the Committee of Enquiry on emoluments and conditions of Service of M.P. Govt. Employees, Rules, 1960 came into existence under which pay scales for ministerial staff were prescribed and it was mentioned in Para 17 as under:-

“The ministerial posts in the Office of the Inspector General of Police should have the same scales as in the offices of the major head of departments.”

Besides this, pay scale for various ranks of executive branch were also provided under Chapter XVII, copy enclosed as Annexure 'A'. For the reference, copy of pay scale of ministerial staff in GAD department, as are given under Chapter XII, are also enclosed herewith as

Annexure-'B' for a just and fair comparison.

11. In 1961, M.P. Pay Revision Rules, popularly known as 'Tarachand Pay Scales' came into existence and the difference of pay scales between the ministerial and executive branches of police continued as is evident from the table given below:-

Post Ministerial	1959 Unified Scales (M)	Pay Scale Tarachand Pay Scale 1961
Superintendent (GB)	250-15-325-20-385-60	285-450
Superintendent (SB)	54 225-12 ½ -250-15-325	300-500
Superintendent (CID)	54 225-12 ½ -250-15-325	265-380
Director FPB	54 225-12 ½ -250-15-325	265-380
Reporter SB	180-10-200-12 ½ -250-13-385	220-430
Asstt.Supdt/S.B.	200- 12 ½-300-48	240-340
Asstt.Supdt G.B. (Auditor)	200- 12 ½-300-48	190-300
UDC Gr.I S.B.	150-10-200-15-12 ½-250-15-280	190-320
Asstt. Supdt.CID	150-10-200-15-12 ½-250-15-280	190-300
Stenos S.B.	150-10-200-15-12 ½-250-15-280	190-320
Asstt. Director FPB	150-10-200-15-12 ½-250-15-280	190-300
UDC Gr I GB	120-6-150-10-200-36	160-240
UDC Gr.I CID	120-6-150-10-200-36	160-240
Steno to IGP/DIGs	120-6-150-13-6-180-10-200-12 ½ -250	160-290
Hd.Clerk Distt/Unit	120-6-150-10-200-36	160-240
Stenos to AIGs	120-6-150-10-200-36	150-265
Acctt.Distt/Unit	90-5-120-6-150-13-10-200 T 31	130-240
UDC Gr.II GB/CID	70-5-120-13-6-150	110-190
UDC Gr.II.SB	70-5-120-13-6-150-10-180T25	115-220
UDC Gr.II/Distt/Unit	70-5-120-13-6-150	110-190
Sr.Operator (FPB)	100-5-120-6-150-15-6-180	140-240
Stenos Distt./Unit	100-5-120-6-150-15-6-180	140-240
LDCs GB/SB/CID/Distt Units	45-2 ½ -60-15-4-100	90-170
Jt.Operator (FPB) Asstt.Sub-Inspr (M)	80-4-100-5-120	120-160
Daftari/Jamadar GB/SB/CID/Unit/Distt	30-1-40	60-7
Peons/Farrash GB/SB/CID/Distt/Units	25-1-35	55-65

Post Executive	1959 Unified Scales (Exe.)	Pay Scale Tarachand Pay Scale 1961
Inspector	180-385	220-430
Sub-Inspector	90-5-120-6-150-15-10-200	130-240
Asstt. Sub-Inspector	70-5-120-15-6-150	110190
Head Constable	30-40-2-60	65-95
Constable		

12. M.P. Police Commission gave its report for 1965-66. There is a chapter on Ministerial Staff (General Branch) (PHQ) and Ministerial Staff (General Branch) (PHQ) and subordinate offices. This chapter gives details of various ministerial posts which were sanctioned by the Govt. so also their pay scales as they existed in 1965, copy is enclosed herewith as Annexure 'C'. It will not be out of context to mention that Inspector General of Police had communicated to the Govt. that scales for ministerial posts were un-attractive and had consequently proposed higher scales of pay but vide Para 11.11 Govt. had rejected this demand with the following observations:-

“11.11 The scales proposed for the different grades show an inordinately high rise in initial pay, run of the scale and the maximum pay. As we have stated in the preceding paragraph, the work which has to be done in the office of the Police Department by clerks is not very much different from the work which has to be done in other offices and the proposed scales will be discriminative and lead to dissatisfaction in the Secretarial and other offices of Government. We are therefore unable to accept this proposal

13. Police executive force traditionally has role to execute all orders and warrants lawfully issued to him by any competent authority, to collect and communicate intelligence affecting public peace, to prevent the commission of offences and public nuisance, to detect and bring offenders to justice and to apprehend persons whom he is legally authorized to apprehend and for whose apprehension sufficient grounds exist and it shall be liable to police officers, for any of the purposes mentioned in Section 4 of the Police Act, 1861, without a warrant to enter and inspect any shop, colony, house or other place or resort of loose and disorderly character broadly police has been divided in to various departments namely District executive Force, Traffic Police, Govt. Railway Police, Criminal Investigation Department, Motor Transport, Radio Branch, Home-guard and Ministerial Staff. All these have distinct and different roles to play different qualifications for recruitment & their duties also vary in terms of physical & mental inputs.

14. District Executive Force has personnel belonging to various ranks starting from Constable, Head Constable, ASI, S.I., Subedar and Inspector. Their main function is:-
(i) To prevent commission of crime in their area;
(ii) Investigation of crimes committed and production of the

offenders before the Court for trial;
(iii) Maintenance of of law and order; and
(iv) Performance of other duties entrusted to police within the district.

15. Against this ministerial staff carries out clerical duties and consist of following ranks:-.

(Ministerial Ranks)
Superintendent (GB)
Superintendent (SB)
Superintendent (CID)
Director FPB
Reporter SB
Asstt.Supdt/S.B.
Asstt.Supdt G.B.(Auditor)
UDC Gr.I S.B.
Asstt. Supdt.CID
Stenos S.B.
Asstt. Director FPB
UDC Gr I GB
UDC Gr.I CID
Steno to IGP/DIGs
Hd.Clerk Distt/Unit
Stenos to AIGs
Acctt.Distt/Unit
UDC Gr.II GB/CID
UDC Gr.II.SB
UDC Gr.II/Distt/Unit
Sr.Operator (FPB)
Stenos Distt./Unit
LDCs GB/SB/CID/Distt Units
Jt.Operator (FPB) Asstt.Sub-Inspr (M)
Daftari/Jamadar GB/SB/CID/Unit/Distt
Peons/Farrash GB/SB/CID/Distt/Units

16. Thus, it is apparent that there is distinct differentiation between the duties and their nature between the executive force and the ministerial staff. This fact also gets credence from reading of Para 11.11, of the 1965-66 Police Commission Report as has been reproduced above in which a view was taken that the work carried out by the Clerks in the offices of the Police Department is not very much different from the work which has to be done in

other offices as a result demand for differential/higher pay scale was rejected. Same sentiment finds place in gazette notification dated 11th October, 1982 where even the Choudhary Pay Commission had refused to make recommendation for similar pay scales for the ministerial staff of Police Department giving them parity with the executive police force. The exact extract is reproduced below:-

“पुलिस विभाग के अनुसचिवीय कर्मचारियों को पुलिस कार्यपालिक बल के समान वेतनमान की सिफारिश करने में हम असमर्थ हैं । उन्हें अन्य विभागों में कार्यरत अपने साथियों को प्राप्त हो रहे वेतनमानों से संतुष्ट होना पड़ेगा ।”

17. A plain reading of memorandum dated 5th November, 1967 vide which decision was taken to create new police Ranks (M) in itself establishes that when this concept was conceptualized, there was no plan to grant a parity between the ministerial police ranks with the executive Police Ranks and, therefore, new police ranks (M) were created. Further this creation of new police ranks (M) was subject to the following conditions:-

- “1. The ministerial employees on their enrollment, will be governed by the provisions of the Police Act, 1861. For regulating their terms of employment, appropriate provision will be made in the MPPR.
2. The ministerial employees of the Police Deptt. after their enrollment under the Police Act will continue to draw emoluments in their existing pay scales or as may be revised from time to time.
3. The ministerial employees on enrollment will be entitled to initial uniform grant and uniform maintenance allowance in accordance with the scale prescribed for corresponding regular police ranks (executive). They will, however, not be entitled to house-rent or rent free accommodation and conveyance allowance admissible to officers of corresponding ranks in the executive branch.”

18. Thus, it is apparent that it was decided to make appropriate provisions for regulating their terms of employment. This, highlights the facts that intention of the Govt. was not to grant parity to such newly created ministerial police ranks else it would have mentioned that provisions of the Police Regulation would apply mutatis mutandis to such newly created police ranks i.e. Ministerial.

19. The second aspect of distinction and differentiation is that the newly created police ranks (M) were not granted parity in pay scales with the executive police force and were allowed to draw emoluments in their existing pay scales. This action highlights the intention of the Govt. that the two separate entities were never sought to be mixed-up for any of the functional or financial purposes.

20. Ministerial employees on grant of new police ranks (M) were given uniform and thus the major change was to convert civilian ministerial employees to uniformed ministerial employees, thus bringing them under the fold of Police Act 1861.

21. Para-3 of the 1967 Order clearly mentions that newly created police ranks (M) were entitled to initial uniform grant and uniform maintenance allowance but were not entitled to other perks like house rent or rent free accommodations and conveyance allowance admissible to officers of corresponding ranks in the executive branch. Thus, the distinction between the two i.e. the executive branch and newly created police ranks (M) is not only limited to differentiation in discharge of duties but also to pay emoluments and this distinction is reasonable and does not offend the provisions of Article 14 of the Constitution of India.

22. There is differentiation in mode of recruitments of the executive police force and police ranks (M) as is given under:-

“Head Clerk, Assistant Clerk, Accountant, Asstt. Accountant, Record Keeper, Daftari etc. of Police Department were governed by para No.964, 965, 966, 967, 968, 969 of M.P. Police Regulation which was framed under the Police Act 1861, along with Rules, Circulars & Oms of the GAD whereas to the executive Police Force GAD instruction, Oms are not applicable.”

23. In the year 1906, first police training school at Sagar was established. Thereafter, two more constable training schools were established, one at Nagpur in 1934 and other at Jabalpur in 1937. In 1936, an advance course of Sub Inspectors was introduced which included instructions in scientific aid to investigation. All the persons recruited to executive branch of police have to undergo rigorous training at one of the constable training institute which have now been re-named as Police Training School and with the passage of time their numbers have gone up to 5, they are at Gwalior (Tigra), Indore, Pachmarhi, Umariya and Rewa.

24. Police Training Institute at Sagar has become Police Academy where officers of the rank of Sub-Inspectors (Executive) and above on the executive side are trained. No such training is imparted to newly created police ranks (Ministerial).

25. In 1973, Pandey Pay Scales came into effect and they continued to maintain the differentiation as is summarized below:-

Post (Ministerial)	Pandey Pay Commission	Post (Executive)	Pandey Pay Commission
Superintendent (GB)	400-675	Inspector	350-600
Superintendent (SB)	400-675	Sub-Inspector	220-375
Superintendent (CID)	375-575	Asstt. Sub-Inspector	195-330
Director FPB	375-575	Head Constable	139-200
Reporter SB 1	350-600	Constable	35-190
Asstt.Suptd/S.B.	350-550		
Asstt.Suptd G.B. (Auditor)	280-480		
UDC Gr.I S.B.	320-480		
Asstt. Supdt.CID	280-480		

Stenos S.B.	320-480		
Asstt. Director FPB	280-480		
UDC Gr I GB	246-460		
UDC Gr.I CID	246-460		
Steno to IGP/DIGs	246-460		
Hd.Clerk Distt/Unit	246-460		
Stenos to AIGs	246-460		
Acctt.Distt/Unit	220-375		
UDC Gr.II GB/CID	195-330		
UDC Gr.II.SB	205-375		
UDC Gr.II/Distt/Unit	195-330		
Sr.Operator (FPB)	220-375		
Sr.Operator (FPB)	220-375		
LDCs GB/SB/CID/Distt Units	169-4-185-5-240-15 -6-270-10-300		
Jt.Operator (FPB) Asstt.Sub-Inspr (M)	205-5-240-6-270-15 -10-350-12 ½ -375		
Daftari/Jamadar GB/SB/CID/Unit/Distt	131-2-145-12 ½ -160-4-164		
Peons/Farrash GB/SB/CID/Distt/Unit s	125-2-145-12 ½ -150		

26. It will not be out of place to mention that before Pandey Pay Scales came into force, Tarachand Pay Scales were in force since 1961, and, therefore, at the time of issuance of memorandum dated 5th Nov. 1967, both ministerial as well as executive staff were drawing their pay in Tarachand Pay Scales. It will not be out of place to mention that differential in pay scales continued even after 1967.

27. In 1983, Choudhary Pay Commission report came into existence in between the Pandey Pay Commission and Choudhary Pay Commission, there was 'Faquir Chand Pay Commission, 1977 but it is not relevant for the purpose of police functionaries either in executive rank or in the ministerial ranks because this Faquir Chand Pay Scales were exclusively meant for engineering services.

28. Choudhary Pay Commission was made effective from 1st April, 1981.

29. On 14th October 1982, Choudhary Pay Commission had shown its inability to recommend same pay scales to the ministerial employees of the police department as were drawn by the executive employees of the police force. Thereafter, the same recommendation finds place in the final recommendation of the Choudhary Pay Commission. Even in Rule-7(b)(iv) this fact finds mention. It is as under:-

- (i) Adhoc increase sanctioned to certain

- categories of Government servants in Police, Home Guards, Jail and Excise Department, except the adhoc increase allowed to Ministerial Staff of Police Department.
- (ii) All instalments of interim relief, including adhoc increase sanctioned to certain categories of Government servants in the Engineering Department.
- (iii) Special Pay, only where it has been merged in the revised Pay Scale (vide) Annexure III).

Thus the Rule has its applicability to the Government Servants who were in service as on 01.04.1981 i.e. the date on which the M.P. Pay Revision Rules 1983 were implemented. Thus the employees who were not in service as on 01.04.1981 can not be brought within the ambit of the aforesaid provisions.

In the present case most of the petitioners have not disclosed their date of appointment but most of them are not eligible for same.

30. Thus Choudhary Pay Commission had refused to grant equal pay scales to the ministerial employees.

31. A glance at GOP for recruitment of ministerial staff dated 19.2.99 demonstrates that qualifications and conditions of recruitment of the ministerial employees are clearly different and distinct from the conditions and qualifications laid down for recruitment of the executive Police under the M.P. Police Executive (Non-Gazetted) Service Rules, 1997."

11. Now in the light of the aforesaid, factual position in the present case may be looked into .

12. The recruitment of executive non-gazetted persons are under the M.P. Police Executive (Non-Gazetted) Service Recruitment Rules, 1996. For ready reference, the recruitment Rules relevant for the decision of this case are referred which reads as under:-

6. **Method of recruitment** -(1) Recruitment to the service after the commencement of these rules shall be made by the following methods, namely:-

- (a) By direct recruitment, by selection, through competitive examination,
- (b) By promotion of such members of service, as are specified in column 2 of Schedule IV.
- (c) By transfer of persons who hold in a substantive capacity such posts in such services as may be specified in this behalf.

(2) The number of persons recruited under clause (b) or clause (c) of sub-rule (1) shall not, at any time exceed the percentage mentioned in Schedule II of the number of posts specified in Schedule I.

(3) Subject to the provisions of these rules, the method or methods for the purpose of filling any particular vacancy or vacancies in the service as may be required to be filled during any particular period of recruitment and the number of persons to be recruited by each method, shall be determined on each occasion by the appointing authority in consultation

with the Committee/Government.

(4) Notwithstanding anything contained in sub rule (1), if in the opinion of the Appointing Authority the exigency of the service so require, he may, with the prior concurrence of the General Administration Department, adopt such method of recruitment to the service other than those specified in the said sub-rule as it may, by order issued in these behalf prescribed.

(5) Candidates desiring for recruitment should apply by submitting an application in the form prescribed by the Government to the District Superintendent of Police concerned for competitive examination to be admitted in the selection procedure.

(6) (i) The candidate must specifically mention, in the application form for recruitment the name of the post for which he desires. The name of only such candidates who have specifically expressed their consent for recruitment to posts to the technical Sub-Inspector (Radio)/(Finger Print)/(QD) and who possess qualification mentioned in schedule III shall only be considered.

(ii) female candidates shall be eligible for recruitment only for the posts of lady Sub-Inspectors.

(7) Giving wrong information or hiding of any factual information in application form by the applicant shall be deemed to be a disqualification. On such act the candidate shall have not right of appointment or continue in service under the Government and his service shall be terminated forthwith by the Appointing Authority without giving any notice.

(8) The procedure of selection by competitive examination in class (a) of sub-rule (1) shall be conducted at the following manner-

(i) **Measurement of physical standard-** The physical test of the candidates shall be conducted according to the minimum qualification as specified in sub-rule (2) of rule 8;

(ii) Written examination- (a) written examination the duration of which will be two hours to test the (a) proficiency in Hindi and English shall be of minimum of hundred marks (Hindi 70 marks, English 30 marks).

(b) General Knowledge examination shall be of 100 marks the duration of which will be 2 hours.

(c) Mathematics, physics and chemistry examination shall be maximum marks 100 the duration of which will be 2 hours. This examination shall be compulsory only for such candidates who have applied for recruitment to the post of Sub Inspector (Radio)/(Finger Print)/(QD) mentioned in Schedule III.

Note- In case any dispute with regard to physical measurement, the decision of the Chief Medical Officer of the District shall be final.

by addition the marks obtained in the examination of first stage a merit list of (1) Subedar, (2) Sub-Inspector, (3) Sub Inspector (Technical), (4) Platoon Commander shall be prepared separately in which the candidates numbering five times the

number of vacant posts advertised shall be called for examination of second stage. Last candidate, on whom five times number is completed and all those candidates who obtained marks more than or equal to this candidate shall be admitted to the second state irrespective of the number becomes more than five times.

If five times number of desirous candidates for recruitment to the technical post is not available such junior candidates who have given consent and found suitable for recruitment to the technical posts shall be allowed to be admitted in the written examination on the condition that their appointment may only be for the post of technical Sub-Inspector.

(iii) Physical proficiency test:- This test is compulsory for all candidates this shall be of 100 marks and shall include following items-

- (a) Long jump - 20 marks
- (b) High jump - 20 marks
- (c) Shot put - 20 marks
- (d) 100 meter race - 20 marks
- (e) 1500 meter race - 20 marks

Details of statement of marks to be awarded in each event are specified in schedule V.

(iv) Interview- Personal Interview shall be of 50 marks

8. Conditions of eligibility of candidates for direct recruitment- In order to be eligible for competing in the examination a candidate shall have to satisfy the following conditions, namely:-

(a) Age – He must have attained the age as specified in column (4) of schedule III and not attained the age specified in column (5) of the said Schedule, on the first day of January next following the date of commencement of the examination.

(b) The upper age limit shall be relaxable upto a maximum of 5 years if a candidate belongs to Scheduled Caste, Scheduled tribe or other Backward class.

(c) The upper age limit will also be relaxable in respect of candidates who are or have been employees of the Madhya Pradesh Government to the extent and subject to the conditions specified below:-

(i) A candidate who is a permanent Government servant should not be more than 36 years of age.

(ii) A candidate holding a post temporarily and applying for another post should not be more than 36 years of age. This concession shall also be admissible to the contingency paid employees, work-charged employees and employees working in the Project Implementation Committee.

(iii) A candidate, who is a retrenched Government Servant shall be allowed to deduct from his age the period of all temporary service previously rendered by him upto a maximum limit of 7 years even if it represents more than one spell provided that the

resultant age does not exceed the upper age limit by more than three years.

Explanation- The term “retrenched Government Servant” denotes a person who was in temporary Government service of this state or of any of the constituent units, for a continuous period of not less than six months and who was discharged because of reduction in the number of employees not more than three years prior to the date of his registration at the Employment

Exchange or of application made otherwise for employment in Government service.

(iv) A candidate who is an ex-serviceman shall be allowed to deduct from his age the period of all defence service previously rendered by him provided that the resultant age does not exceed the upper age limit by more than three years.

Explanation.- The term “Ex.Serviceman” denotes a person who belongs to any of the following categories and who was employed under the Government of Indian for a continuous period of not less than six months and who was retrenched or declared surplus as a result of the recommendation of the economy unit or due to normal the number of employees not more than three years before the date of his registration at any Employment Exchange of application made otherwise for employment in Government service.-

(1) Ex-serviceman released under mustering out concession.

(2) Ex-serviceman recruited for the second time and discharged on-

(a) Completion of short-term engagement;

(b) Fulfilling the conditions of enrollment;

(3) Officers (Military and Civil) discharged on completion of their contract (including short service regular commissioned officers);

(4) Officers discharged after working for more than six months continuously against leave vacancies;

(d) The general upper age limit shall be relaxable up to 35 years in respect of widow, destitutes or divorced women candidates.

(e) The upper age limit shall also be relaxed upto two years in respect of green card holder candidates under the Family Welfare Programme.

(f) The General upper age limit shall be relaxed up to 5 years in respect of awarded superior caste partner of a couple under the inter caste marriage incentive programme of the Tribal, Scheduled Caste and Backward Classes Welfare Department.

(g) The upper age limit shall also be relaxable upto 5 years in respect of 'Vikram Award' holder candidates.

(h) The upper age limit shall be relaxable up to a maximum of 36 years of age in respect of candidate who are employees of Madhya Pradesh State Corporation/Board.

(i) The upper age limit shall be relaxed in the case of voluntary Home Guards and non-commissioned officers of Home Guards for the period of service

rendered so by them subject to the limit of 8 years but in no case their age should exceed 36 years.

Note- (1) Candidates who are admitted to the selection under the age concessions mentioned in sub-clause (i) and (ii) of clause (c) above shall not be eligible for appointment if after submitting the application they resign from service either before or after the selection. They will however continue to be eligible if they are retrenched from the service or post after submitting the application.

Note-(2) In no other case while these age limits be relaxed Departmental candidates must obtain previous permission of their appointing authority to appear for the selection.

(2) Physical qualification- Candidate must have the following physical qualification:-

(a) Height 167.5 cms. or more 152.4 cms. or more (for woman Sub Inspector only)

(b) Chest 81 cms without expansion 86 cms after expansion (candidate should attain the difference of 5 cms between unexpanded and expanded chest. There should be no relaxation on this subject;

(c) Candidate should not be physically handicapped;

(d) Candidate should not have "Knock Knee" "Flat foot" and should not have any vision defect and should be medically fit.

(3) Education qualification:- A candidate must possess the educational qualification prescribed for the service as shown in the Schedule III provided that..

(a) In exceptional cases the Committee may on recommendation of the appointing authority treat as qualified any candidate who though not possessing any qualification prescribed in this clause has passed examinations conducted by other institutions by such a standard which in the opinion of the Committee justifies the consideration of the candidate as eligible for examination/selection.

(b) Candidates who are otherwise qualified but have taken degree from foreign universities, being universities not specifically recognized by Government may also be considered for appearing in the examination/selection at the discretion of the Committee."

9. Dis-qualification – Any attempt on the part of a candidate to obtain support for his candidature by any means may be held by the appointing authority to disqualify him for appearing in the examination/selection.

13. So far as as sub-ordinate staff of the Police Department is concerned, certain provisions of M.P. Police Regulations may be referred which read as under:-

"46. Inspectors- Appointment of- All appointments to the rank of Inspector are made by selection from the ranks of Sub- Inspector and Subedar.

A board consisting of the Deputy Inspectors-General prepares yearly a panel of names of Sub-Inspectors fit for promotion, from the recommendations of District Superintendents of Police. Selection for promotion is made from the panel by the Inspector-General.

A panel of Subedars and Reserve Sub-Inspectors is likewise prepared for promotion to Reserve Inspectorship and selection is made in a similar manner. Reserve Inspectors may also be appointed by transfer of Circle Inspectors.

47. Sub-Inspectors – Recruitment of Sub-Inspectors, who must be natives of India, are recruited from two sources-

- (a) From the Madhya Pradesh Police College, Sagar.
- (b) From the cadre of Assistant Sub-Inspectors selection being made by a committee consisting of the Range Deputy Inspectors-General.

48. Appointment of- (1) The number of posts available for students of the Madhya Pradesh Police College will depend on the number of vacancies in the cadre of Sub-Inspectors, selection being made according to seniority in the final examination.

(2) A probationer (including a departmental candidate put on probation) who is considered unfit for confirmation shall be removed from office at the end of the probationary period of 2 years fixed at the time of appointment unless in the meanwhile that period is further extended under sanction of the State Government which shall be given in exceptional circumstances.

On leaving the Training College-

- (a) Outside candidates will be kept on probation for 2 years against permanent posts (which may be extended by the Range Deputy Inspector-General) or in a temporary capacity against temporary posts.
- (b) Departmental candidates will be confirmed as Sub-Inspectors, or kept on probation for 2 years, according to the orders of the Central Committee at the time of their selection.

49. Sub-Inspectors-Confirmation of – The confirmation as Sub-Inspector of an Assistant Sub-Inspector or of a Probationary Sub-Inspector will be made by the Range Deputy Inspector-General.

50. Subedar's- Qualifications and appointment of Candidates for the post of Subedars must be of good character, active habits and sound physique. The candidates will be interviewed for selection by a Committee constituted by the Government.

50-A. Assistant Sub-Inspectors shall be appointed by the Inspector-General by promoting Head Constables whose names find place in the list of Head Constables fit for trial as Assistant Sub-Inspectors, to be prepared by a Committee of Deputy Inspector-General on the recommendation of the

District Superintendents of Police.

50-B. Subject to such rules of orders as may be made or issued from time to time by the State Government in this behalf, appointments to the posts of Head Constables and Constables shall be made by District Superintendent of Police.

14. So far as ministerial staff is concerned, Regulation 964 provides office staff of S.P. The relevant provisions of Regulations 946 to 969 may be referred which read as under:-

964. Office Staff of S.P.- The office staff of the Superintendent consists of non-enrolled clerical officials. Every district has the following staff:-

Head clerk

Assistant clerk (one to four, according to the size of the district).

Accountant

Assistant Accountant (two in heavy districts, one in the remainder)

Statistical clerk (with an assistant in the heavier districts).

Record keeper (with an assistant in all except the light districts)

Despatcher.

Daftari.

965. The following appointments require a thorough knowledge of English, and a capacity to do clerical work in English:-

Head clerks.

Assistant clerks

Accountants.

Assistant Accountants.

966 Head Clerk. The head clerk is in charge of the English office and is also responsible for the working of the Hindi office. He checks all bills, returns, etc. prepared by the accountant, drafts all letters and dockets, and exercises a general supervision and control over the accountant. He also maintains the following registers:-

(1) Cash book and ledger

(2) Loan fund cash book and ledger

(3) Contingent register

(4) Increment register

(5) Register of establishment and postings

(6) Stock register of stationery and forms

(7) Register of receipt and issues

(8) Stock book

(9) Register of Police Buildings

He is responsible for the preparation and punctual submission of pension papers, and of all English statement, returns and indents. The distribution of duties between himself and his assistants will depend on the nature of the work in each district.

967. Accountant- The accountant assists the head clerk in maintaining the account books and in writing receipts and remittance invoices. He is responsible for checking all contingent and travelling allowance bills

sent in from police stations and for preparing all pay-bills. Translations of all entries in the order book which affect the pay, distribution or leave of members of the district force are sent to him at once. All entries in the general diaries relating to leave or absence from duty are sent to him for perusal. With the aid of his assistant, he maintains the following registers:-

- (1) Leave register.
- (2) Pay register
- (3) Travelling allowance register
- (4) Register of Service stamps
- (5) Register of Load Fund applications
- (6) Register of the Police Benevolent Fund.

968 Statistical Clerk- The statistical clerk prepares in vernacular the figures for the monthly analysis of crime and other periodical returns relating to the registers kept by him and makes them over to the head clerk for translation. He and his assistants maintain the following registers:-

- (1) Crime register in English
- (2) Register of accidental deaths in vernacular
- (3) Register of fires in vernacular
- (4) Register of pensioners in vernacular
- (5) Register of licences under the Central Provinces Game Act

969 Record-keeper and dispatcher- The following registers will be kept; records. The despatcher maintains the vernacular correspondence register, and is responsible for the despatch of all papers sent to him for issue.

15 These provisions provide that there will be two separate cadres in the Police Department, executive and ministerial. By memorandum dated 5.11.1967, the State Government in exercise of the powers under Section 2 of the Police Act, 1861 created a new police rank ministerial in the State Police Force with effect from 1st of March, 1967. For ready reference, memorandum dated 5.11.1967 is referred which reads thus:-

“GOVERNMENT OF MADHYA PRADESH
HOME (POLICE) DEPARTMENT
No.3660/989/II/B(iii) BHOPAL dated the 5th, Nov. 1967

Memorandum

To,

The Inspector General of Police
Madhya Pradesh
Bhopal

Subject:- Giving Police Ranks to Ministerial Staff of Police Department.

In exercise of the powers conferred under section 2 of the Police Act, 1861 (Act 5 of 1861), the State Government are pleased to create new police ranks (Ministerial) in the state police Force with retrospective effect from the 1st March, 1967 and to authorise enrollment of the existing ministerial staff of the Police Department against these ranks in accordance with the appended equation schedule, subject to the following conditions:-

1. The ministerial employees on their enrollment, will be governed by the provisions of the Police Act, 1861. For regulating their terms of employment, appropriate provision will be made in the MPPR.
2. The ministerial employees of the Police Deptt. after their enrollment under the Police Act will continue to draw emoluments in their existing pay scales or as may be revised from time to time.
3. The ministerial employees on enrollment will be entitled to initial uniform grant and uniform maintenance allowance in accordance with the scale prescribed for corresponding regular police ranks (executive). They will, however, not be entitled to house-rent or rent free accommodation and conveyance allowance admissible to officers of corresponding ranks in the executive branch.
2. The present incumbents in the existing ministerial and regular class IV cadres will be enrolled in the Police Force in the Police ranks (Ministerial) and issued appointment certificated in form-B enclosed herewith, under section 8 of the Police Act read with P.R.62. Those not opting for enrollment in the Police rank (ministerial) by 31st Dec. 1967 will not be eligible for enrollment.
3. The terms of service of those who do not opt to be enrolled under the Police Act will remain unchanged. The entire ministerial and regular class IV staff of the Police organisation shall however, henceforth be recruited to the police ranks (ministerial) under the Police Act.
4. The expenditure on this account is debitable to the head "23-Police-A-Superintendence(3) Allowance and Honoraria other Allowance B-1 (i) District establishment (3) Allowance and Honoraria-uniform allowance B-2 Antidacoity operations (3) Allowances and Honoraria-uniform allowance B-3-Village Defance Societies (3) Allowances and Honoraria other allowances C-Police Training Schools and Colleges - (c)1-State Institutions (3) Allowances and Honoraria-other allowances Erailway police E-(I) Western Section-E-1(i) Supervisory staff (3) Allowances and Honoraria -Uniform Allowance E-2 Eastern Section-E (2)(I) Supervisory staff (3) Allowances and Honoraria-Uniform allowance E-3-Indore Section E-3(I) Supervisory Staff (3) Allowances and Honoraria – Uniform Allowance F CID (3) Allowances and Honoraria-other allowances under grant No.3-Non-Plan.

By order and in the name of the Governor of Madhya Pradesh.

Sd/- S.K.Sharma
Deputy Secretary to Govt.
Madhya Pradesh

No.3661/989/2/B(iii) Bhopal the dt. 8th Nov. 1967

Copy (with a spare copy) forwarded to the

Finance Deptt. for information and favour of
communication to the Accountant General MP Gwalior

Sd/- S.K.Sharma
Deputy Secretary to Govt.

**EQUATION SCHEDULE FOR CONVERSION OF MINISTERIAL POSTS
INTO POLICE EXECUTIVE (M) CADRE**

S.No.	Ministerial <u>Posts</u>	Proposed Police Ranks (Ministerial) <u>Pay-Scale</u>
1. Superintendent (GB)		285-450)
2. Superintendent (SB)		300-500)
3. Superintendent (CID)		265-380)
4. Director FPB		265-380)
5. Reporter S.B.		220-430)
6. Asstt.Suptt. S.B.		240-340)
7. Asstt Suptt.G.B. (Auditor)		190-300)
8. UDC Gr.I.S.B.		190-300)
9. Asstt.Suptt CID		190-300)
10.Stenos S.B.		190-300)
11.Asstt.Dirctor FPB		190-300)
12.UDC Gr.1 GB		160-240)
13. UDC Gr.1 CID		160-240)
14. Stenos to IGP/DIGs		160-240)
15. Hd Clerk Distt/Unit		160-240)
16. Steno to AIGs		150-265)
17. Asstt.Distt/Unit		130-240)
18. UDC Gr.II GB/CID		110-190)
19. UDC Gr.II S.B.		115-220)
20. UDC Gr.II/Distt/Unit		110-190)
21. Sr.Operator (FPB)		140-240)
22 Stenos Distt/Unit		140-240)
23.LDCs GB/SB/CID/Distt Units		90-170)
24.Jr.Operator (FPB)		120-160)
Asstt.Sub-Inspr(M)		
25.Daftari/Jamadar		60-70)
GB/SB/CID/Unit/Distt.		
26. Peons/Farrash		55-65)
GB/SB/CID/Unit/Distt.		

Sd/- Deputy Secretary to Govt. M.P.”

16. The memorandum provides that ministerial employees after their enrollment will be governed by the Police Act, 1861. For regulating their terms of employment, appropriate provision was directed to be made in the M.P. Police Regulations. Para 2 of the memorandum provides that the ministerial employees of the Police Department, after their enrollment under the Police Act will continue to draw emoluments in their existing pay scales or as may be revised from time to time. This provision was specifically

made in the memorandum to make payment of the emoluments which the employees of the ministerial cadre were drawing before issuance of Annexure A/1. Though ministerial employees were given uniform grant and uniform maintenance as per the scales prescribed for corresponding regular police ranks (executive), but salaries were not provided at par with their counter part in the executive rank. From the perusal of the Schedule, it is apparent that first five posts in various pay-scales were assigned rank of Inspector (M), 6 to 17 posts were assigned the rank of Subedar (M), 18 to 24 posts were assigned the rank of Sub-Inspector (M), Post No.25 Daftari/Jamadar was assigned the rank of Head Constable (M) while post No.26 of Peons/Farrash was assigned the rank of Constable (M) by conversion into ministerial posts in the police executive (M) cadre. Though aforesaid ranks were converted as many as in 5 police ranks (Ministerial), but their existing pay-scale was not revised at par with their counter part in executive ranks. Meaning thereby that the entire purpose of issuance of the memorandum dated 5.11.1967 was to give police rank to ministerial staff in the police department with some facilities like uniform grant and uniform maintenance etc. But they were not made at par with executive cadre. Their emoluments were also not revised even by order dated 5.11.1967.

17. By order Annexure A/2 dated 26/28.6.1979, the State Government allowed adhoc increment to non-gazetted employees of the police force with effect from 14.6.1979; for Constables Rs.50/- per month, Head-Constables Rs.60/- per month and Assistant Sub-Inspector, Sub-Inspector/Platoon Commander/Subedar and Inspector/Company were allowed Rs.70/- per month. This adhoc increment was allowed to all non-gazetted staff of police force including executive and ministerial.

18. A petition was filed before the High Court of M.P. Bench Indore by one Sharad Baburao Belapurkar registered as M.P.No.851/1983 which was decided by a learned Single Judge of this Court on 6.3.1985. The petition was filed against the order by which on the basis of the objection raised by the Accountant General, Gwalior, the amount paid to the petitioners by way of one month salary was directed to be recovered. The facts of that case were that the petitioners joined the police force as Lower Division Clerk in different years except one petitioner Chandraprakash Dave who was appointed as Assistant Sub-Inspector of Police. All the petitioners were in the ministerial staff and after creation of new cadre for the members of the ministerial staff, an option was given to the ministerial staff that the employee who was not willing to take advantage of new executive (M) cadre was to give an option that he does not want to join executive (M) cadre and will continue to be a member of ministerial staff. On opting the option, the concerned employee was not vested with the power and privileges of a police officer under the Police Act. The contention of the petitioners was that they were allowed certain allowances and adhoc increment which has been directed to be recovered. The learned Single Judge considering the controversy held thus:-

“15. After hearing the learned counsel and after going through the records as also the case law cited, I am not persuaded to agree with the submission made by the learned Government advocate as the authorities cited by him do not help the case of the respondents as the

powers given under section 12 of the Police Act have nothing to do with the appointment of persons in the police force as such. Once a person is appointed in the Police force he is governed by the provisions of the Police Act. That apart, it would appear from the provisions of Ss 17, 18 and 19 of the Police Act referred to above, that merely because a person has not been given the regular training which is given to a Police Officer would not mean that he does not belong to the police force because it is for the government to send or not to send these officials for the purpose of training and there no bar for sending these persons for regular training after they are taken up in the police force, which is only on force as defined in the said Act, though the State Govt. has created a new category to which the petitioners belong. That apart, the submission of the learned Govt. advocate that in absence of training the petitioners are not entitled to the additional salary also does not appear to be convincing as was unable to controvert the submission made by the learned counsel for the petitioners that there are orderlies working at the residence of the police officials discharging household duties even though they are appointed as constables in the police force, that even a officer of the rank of sub-insp of police is, working as a Reader in the office of the Superintendent of Police as also in the office of the higher officials; that even the officials working in the wireless, Finger Print and Radio Sections are only working in their offices, though they belong to the Police Force and are not posted on duty in connection with Law and order or investigation or crimes or other duties assigned to the Police Officers. Therefore, it is clear that absence of training as such alone would not come in the way of the petitioners in getting the additional salary after they have been absorbed in the Police force and have been vested with all the powers functions and privileges of a Police Officer. That apart, they have been treated as such and have been given the allowances as per annexure-C and D and annexure R-3 dt. 5th Nov. 1967 would also show the equation schedules for conversion of ministerial posts into Police Executive (M) cadre. Therefore, it can not be doubted that the petitioners belonged to the Police force as mentioned in Police Act and they are entitled to the additional salary of which they can not be deprived of nor additional salary already paid to them can be recovered from the salary. In fact such short of description amounts to violation of Arts.14, 16 of the Constitution of India as has been observed in AIR 1984 SC 1499 (Sengara Singh Vs. State of Punjab)."

The petition was allowed and the orders were quashed and the petitioners were found entitled to additional salary which they were getting before issuance of the impugned order. It was further directed that the recovered amount be refunded to all the petitioners. But in this case, the controversy is entirely different and the ratio of Sharad Baburao Belapurkar is not applicable.

19. The controversy arose when the rules namely M.P. Revision of Pay Rules, 1983 came into force with effect from 1st of April, 1981. After coming into force of the aforesaid rules,

petitioners herein claimed that they be allowed pay-scale as per Annexure-II of the Rules while the case of the respondents before the Single Bench was that they are entitled for revised scale of pay as per their existing scale as shown in the Annexure-I. The respondents revised the scales of pay of the petitioners as per Annexure-I. As per their existing scales, they were allowed corresponding pay scale. The contention of the petitioners is that in Annexure-II, revised pay-scale has been shown as per the posts and they are entitled for the same.

20. To appreciate the aforesaid contention, the relevant provisions in the Rules of 1983 may be looked into. For ready reference, definitions of basic pay, existing emolument, existing scale, revised scale; rules 3, 5 and 7 may be referred, which are as under:-

2 (b) 'basic pay' means pay as defined in rule 9(21)(a)(i) of the Fundamental Rules as applicable in the Madhya Pradesh and includes personal pay granted vide Finance Department Memo No.F-A-5-8-73-R-I/IV, dated 28th December, 1973;

(c) 'Existing emoluments' means -

- i) The basic pay in the existing scales;
- (ii) stagnation allowance, if any;
- (iii) dearness allowance, additional dearness allowance and ad hoc additional dearness allowance admissible on the basis of pay in the existing scale up to ad hoc additional dearness allowance sanctioned with effect from 1st September, 1981 vide Finance Department Memo No.F.B.8/1/81/R-II/IV, dated 31st October, 1981.
- (iv) Interim relief sanctioned vide Finance Department, Memo No.F.B-2-80/R-II/IV, dated 31st March 1980 read with memo No.F.B.8-2-80/R-II/IV, dated 26th May 1980, Memo No.F.B.8-2-81/R-II/IV, dated 3rd April 1981 and Memo No.F.B.8-2-81/R-II/IV, dated 22nd April 1981 and the interim relief (ad hoc increase) sanctioned to certain categories of Government Servants in the Engineering Departments vide General Administration Department order No.D-100/269/I(3)- de- 80, dated 12th September 1980;
- (v) 'Ad hoc' increase sanctioned to certain categories of Government Servants in Police, Home Guards Organisation, Jails and Excise Departments;
- (vi) Special pay only where it has been merged in the revised pay-scale.

(d)'existing scale' means, the scale of pay as shown in column 2 of Annexure I and column 3 of Annexure II;

(h)'revised scale' in relation to any post mentioned in column 2 of Annexure II means the scale of pay specified against that post in column 4 thereof.

3. Revised Scale of pay- The revised scale of pay applicable to any post carrying existing scale shown in column 2 and 3 of Annexure I and II respectively shall be corresponding pay-scale shown in column 4 thereof respect of that post.

5. Drawal of pay in the revised scale- Save as otherwise provided in these rules, a Government Servant shall draw pay in the revised scale applicable to the post to which he is appointed. Provided that a Government servant may elect to continue to draw pay in the existing scale until the date on which he earns his next or any subsequent increment in the existing scale or until he vacates his post or ceases to draw pay in that scale.

Note – Government servants recruited on or after 1st April 1981 or appointed by transfer or promotion to posts after that date and before the publication of these rules should be allowed pay only in the revised scales admissible under these rules and the option under the above proviso shall not be available in respect of such posts.

Rule 7 Fixation of initial pay in the revised scale-

(1).....

(b).....

(iv)- Adhoc increase sanctioned to certain categories of Government servants in Police, Home Guard, Jail and Excise Department, except the adhoc increase allowed to Ministerial Staff of Police Department.

(2) An amount equal to 20% of the basic pay (inclusive of stagnation allowance, if any) shall first be calculated. In case this amount exceeds Rs.150 it should be reduced to Rs.150. From such amount the amount of interim relief, or in the case of certain categories of Government servants in the Engineering Department, the amount of the ad-hoc increase sanctioned to them, shall be deducted and the balance be added to the emoluments arrived at as in sub-rule (1). If in any case, the balance is less than Rs.10/- then Rs.10/- shall be added to the emoluments.

21. As per section 2(d), the existing scale means that the scale of pay as shown in column 2 of Annexure I and column 3 of Annexure II. Revised scale, as defined in relation to any post mentioned in column 2 of Annexure II, means the scale of pay specified against that post in column 4 thereof. While the revised scale of pay applicable to any post carrying existing scale is shown in column 2 and 3 of Annexure I and II respectively and it shall be corresponding pay-scale shown in column 4 in respect of that post. In the light of these specific provisions, tables Annexure-I and II may be looked into. In Annexure-I, existing scales under Pandey pay-scales have been shown and corresponding revised pay scales have been provided. In Annexure-II Part-B, in the Home Department, Rules provides names of various posts of Subedar, Sub-Inspector of Police, Assistant Sub-Inspector of Police/ASI (Armourer), Head Constable and Police Constable, but does not provide any post of ministerial cadre. Meaning thereby that these posts were not provided in Annexure-II-B. Another reason of non-inclusion of ministerial staff in Annexure II-B of the Rules was that all the petitioners were not getting payscales which are shown in column-3 of Annexure II, which were existing pay scales.

22. Now the contention of the petitioners that adhoc increment could have been included for the purpose of revision of pay-scale, may be seen. Rule 7(1)(b)(iv) specifically provides that adhoc increase sanctioned to certain categories of Government servants in Police, Home Guard, Jail and Excise Department, except the adhoc increase allowed to Ministerial Staff of Police Department. Aforesaid rule specifically excludes adhoc increase allowed to ministerial staff of the police department and that adhoc increase was not to be taken into consideration for revision of pay. In the light of specific provisions under the Rules of 1983, adhoc increase which was given to the petitioners vide Annexure A/2 dated 26/28.6.1979 was not to be included for revision of pay-

scales under the Rules of 1983. In the light of the aforesaid discussion, contention of the petitioners that adhoc increase in the pay ought to have been included for the purpose of revision of pay has no substance. Annexure-I provides existing pay-scales and corresponding revised pay-scale under the Rules of 1983 and as per rule 3 of the Rules, petitioners were entitled for corresponding revised pay-scale under Annexure-I for the simple reason that adhoc increment was excluded for the ministerial staff of the Police Department and in Annexure-II, ministerial staff were specifically not included. Their pay-scales were not matching to the pay-scales shown in column-3 of Annexure-II, so petitioners were entitled for the revision of pay-scales as per Annexure-I only.

23. Though learned counsel for the appellants/petitioners in the arguments submitted that the State Government has not produced material before this Court in respect of sanction of the pay-scales to the ministerial staff but in this regard, the documents have been produced by the State providing various pay-scales in the Police Department as per Chapter-XVII of the Police Manual Annexure-A and Annexure-B, report of the Committee of Enquiry on Emoluments and Conditions of Service for M.P. Government Employees showing pay-scale of various cadres in ministerial staff. The third document which is on record is pay-scales for the year 1965-66 dated 5.11.1967 which also supports the contention of the respondents. So this objection has no force.

24. The next contention of the appellants/petitioners that for one post equal pay-scale ought to have been provided by the respondents is concerned, as stated hereinabove recruitment process for the employees of the executive and ministerial are different. Their qualifications are also different. Apart from this, duties which were being discharged by the executive and ministerial are different. The employees in executive are discharging the duties which are more rigorous and hard in comparison to the employees of the ministerial staff. Though some documents have been produced by the appellants/petitioners to show that the employees of the ministerial staff were engaged for executive duties but the documents show that they were assigned the duties during election period. Merely because of some exigency, they were assigned the duties during election work will not be a ground to treat the employees of the ministerial at par with the executive and their entitlement for salary at par with the police employees working in executive cadre.

25. A similar question arose before the Apex Court in *Narottam Dass Beshtoo Vs. Union of India & others* 1994 Supp. 3 SCC 264. The Apex Court considering the question held that under Chapter VI of the Establishment Manual of Central Reserve Force, 1976 it is intended to find out equivalence of the ministerial posts with that the executive posts (Head Constable) for some administrative and financial purposes, but the holder of the ministerial post cannot be treated like that of the corresponding holder of executive post for all purposes. Similar is the position here.

26. Now last contention of the appellants/petitioners that the amount which was paid to the appellants/petitioners cannot be directed to be recovered, is concerned, this question deserves to be decided in the back ground of some facts.

27. The M.P. Administrative Tribunal, Bhopal Bench in O.A.No.45 of 1998 decided on 1.1.2000, in which the Tribunal had directed thus:-

“Petition is accordingly allowed and the Respondents are directed to re-fix the pay of the applicant in the revised pay scale, as per Table 31 of M.P. Revision of Pay Rules, 1983 by including Rs.70/- of adhoc increase for calculation of initial pay as per rule 7(b) of the said rule and accordingly Respondents are further directed to revise the pension and pay the arrears with simple interest @ 12% per annum from the date of filing of this petition i.e. 20.1.1998 till the date of actual payment.”

Thereafter, a review petition was filed against the order dated 1.1.2000 passed in O.A.No.45 of 1998. The review petition was decided on 17.11.2001 in which the Tribunal made the position clear. For ready reference para 8 of the order may be referred which reads as under:-

“8. It appears from the above submissions of Government Advocate that only because a wrong Table number was mentioned in the operative part of the original order under review that an entirely unintended benefit has flowed to the subsequent petitioners. Here it may also be mentioned that Table 31 and other Tables are only ready reckoners issued by Government for fixing the pay of Government servants drawing pay at different stages in the pre-revised scales in the new revised scales so as to facilitate quick pay fixation. They do not prescribe the new scales. The new revised scales are given either in Schedule I or II of the Pay Rules 1983 against the corresponding un-revised scales and being part of the rules have the requisite statutory force. The pay fixations were also required to be carried out as per the provisions contained in the rules. The prayer in the original petition made by the nonapplicant for fixing his pay as per Table 31 was therefore, in this light misconceived. There was no need for a reference to any Table. There is thus an apparent error on the face of the record. The reference to Table 31 which pertains to Inspectors of the executive force under circumstances brought out above has created a situation which has led to extension of an entirely unintended benefit. There being an apparent error on the face of the record the original order deserves to be recalled and reviewed and the error corrected.....”

It appears that the order passed in review petition could not come into notice of the authorities. But, subsequently, orders were passed by the State Government Annexure R/3 on 6.5.2005 and 3.8.2005 by which aforesaid earlier order was directed to be rectified and the recovery of the amount was directed. Aforesaid factual position states that because of the earlier order passed by the Tribunal, appellants/petitioners were wrongly given the payscales in wrong table while they were not entitled for the same and when the order was reviewed by the Tribunal and earlier order

was modified by order dated 17.11.2001, appellants/petitioners were not entitled to get the benefit. It is apparent that because of the order which was already reviewed, petitioners got the benefit for which they were not entitled.

28. The Apex Court considered this question in *Mangalore University Non-Teaching Employees' Association* (supra) held thus:-

“The only other question to be considered is whether the government orders impugned in the writ petitions are liable to be quashed on account of infraction of the principles of natural justice. It is true, in a case of this nature

where the payment already made is sought to be recovered, thereby visiting the employees with adverse monetary consequences, the affected employees should have been put on notice and their objections called for. But, it is by now well settled that in all cases of violation of the principles of natural justice, the court exercising jurisdiction under Article 226 of the Constitution need not necessarily interfere and set at naught the action taken. The genesis of the action contemplated, the reasons thereof and the reasonable possibility of prejudice are some of the factors which weigh with

the court in considering the effect of violation of the principles of natural justice. When undisputably the action taken is within the parameters of the rules governing the payment of HRA and CCA and moreover the university

authorities themselves espoused the cause of employees while corresponding with the Government, it is difficult to visualize any real prejudice to the respondents on account of not affording the opportunity to make representation. We cannot, therefore, uphold the view of the Appellate Bench of the High Court on this aspect of this case.”

29. The Apex Court considering similar controversy in *Syed Abdul Qadir* (supra) held thus:-

“The excess amount that has been paid to the appellant teachers, was not because of any misrepresentation of fraud on their part and the appellants also had no knowledge that the amount that was being paid to them was more than what they were entitled to. The Finance Department of the respondent State has admitted that it was a bonafide mistake. The excess payment made was the result of wrong interpretation of the rule that was applicable to them, for which the appellants cannot be held responsible. Rather, the whole confusion was because of inaction, negligence and carelessness of the officials concerned of the respondent

Government. It has also been brought to the Court's notice that majority of the beneficiaries have either retired or are on the verge of it. Keeping in view the peculiar facts and circumstances of the case at hand and to avoid any hardship to the appellant teachers,

recovery of the amount that has been paid in excess to the appellant teachers is prohibited. Amount that has already been recovered has to be refunded to the employees concerned. These directions would also apply to those similarly situated teachers who have not moved the Court."

Similar is the position herein. The appellants/petitioners herein were given emoluments at par with their counter part in executive while contention of the petitioners was accepted by the Tribunal in O.A.No.45/98 on 1.1.2000. Though aforesaid order was reviewed by the Tribunal on 17.11.2001 but inspite of this, amount was paid to the appellants/petitioners. So, the amount which was paid between 1.1.2000 and 17.11.2001 was because of the order passed by the Tribunal for which appellants/petitioners cannot be held liable, so recovery of the amount paid to the appellants/petitioners for the period between 1.1.2000 and 17.11.2001 against the appellants/petitioners is not justified. However, the amount which has been paid after 17.11.2001 till the impugned order was passed, appellants/petitioners were not entitled to receive the same amount. In view of the aforesaid, the appellants/petitioners were not at fault in getting the emoluments for the period between 1.1.2000 and 17.11.2001 and recovery for this period against the petitioners is not justified. However, after 17.11.2001, any amount paid to the petitioners was not legal and justified and in this regard, recovery initiated against the appellants/petitioners is in accordance with law.

30. In view of aforesaid, recovery against the appellants/petitioners for the period between 1.1.2000 and 17.11.2001 is hereby quashed. However, respondents shall be entitled to recover the excess amount paid to the appellants/petitioners after 17.11.2001. Aforesaid amount shall be recovered in installments as directed by the respondents.

31. With the aforesaid modification, these appeals are dismissed with no order as to costs."

Keeping in view the aforesaid order passed by the Division Bench, the question of granting relief to the petitioner does not arise as controversy involved in the present case has already been concluded by the Division Bench and the judgment delivered by the Division Bench of this Court shall be applicable *mutatis mutandis* in the present case also.

The writ petitions are, accordingly, dismissed.

No order as to costs.

(S. C. Sharma)
Judge

N.R.