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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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CWP-27226-2023 (O&M)
Date of decision: 05.02.2025

Harjeet Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rashpinder Singh, Advocate for the petitioners.

Mr. Arun Gupta, DAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. Prayer made in the present petition is for directing the respondents to grant the statutory pay scale.
2. Learned counsel submits that the petitioners were appointed as Junior Technician in February, 2021, pursuant to the Advertisement No.6 of 29.12.2015 wherein also the scale as per the rules was mentioned while they are being paid consolidated pay of Rs.19,900/- in terms of the Instructions dated 17.07.2020. The issue has already been decided by this Court in **Saurabh Sharma and others vs. State of Punjab and another**, CWP-15896-2023 and connected cases, on 13.09.2024, against which even LPA No.1277 of 2024 was dismissed on 22.05.2024 so also SLP No.1158 of 2025, on 20.01.2025, which covers the case of the petitioners on all fours, which learned State counsel despite best efforts has been unable to controvert regards the factual position and draw out any distinctive aspects in the aforementioned judgment or cite any contrary law and the same read thus:-

“8. It is a settled principle of law that the appointment as well as the pay scale is to be given in accordance with the rules governing the service. Learned counsel for the

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respondents concedes the fact that as per 2016 Rules, which are applicable upon the petitioners qua the post of Assistant Professor, the pay scale envisaged therein is Rs.37,400 – 67,000/ + 8600/- Grade Pay. That being the position, the petitioners should have been given the pay scale of the post of Assistant Professor as envisaged under the 2016 Rules.

9. Further, with regard to the argument of learned counsel for the respondents that when the posts were advertised, the Instructions of the State dated 17.07.2020 were already in operation, hence, the petitioners have been granted the benefit of pay only as per the Instructions dated 17.07.2020, it may be noticed that merely that the respondent-State had issued Instructions dated 17.07.2020, the same will not overwrite the 2016 Rules governing the service. It is a settled principle of law that in case, there is a conflict between the Instructions and the Rules governing the service, the 2016 Rules will prevail over the Instructions dated 17.07.2020, hence, once under the 2016 Rules which have supremacy over the Instructions dated 17.07.2020, the petitioners are held entitled for the pay scale of ₹ ₹ 37,400 – 67,000/- + ₹8600/- Grade Pay while working on the post of Assistant Professor as envisaged under 2016 Rules, they cannot be denied the said benefit of pay under 2016 Rules merely that contradictory Instructions dated 17.07.2020 have been issued by the State. Until and unless the 2016 Rules are amended to be in conformity with the Instructions dated 17.07.2020, the Instructions dated 17.07.2020 cannot be given effect to till the said Instructions remain in conflict with the 2016 Rules governing the service.

10. At this stage, learned counsel for the respondents submits that the Instructions have only been issued to supplement the Rules. The State has a power to issue Instructions to supplement the Rules. The supplement Instructions will only operate in a field which is not covered by the 2016 Rules governing the service or on the aspect qua which 2016 Rules are silent.

11. In the present petitions, the pay scale of the post in question has been described in the 2016 Rules itself, hence, it cannot be said that by the Instructions dated 17.07.2020, respondents were supplementing the Rules. Rather the Instructions dated 17.07.2020 are contrary to the 2016 Rules qua the pay scale of the post on which petitioners are working and hence, said Instructions dated 17.07.2020 cannot be made operational till 2016 Rules are amended.

12. Even otherwise, in case the plea of the respondents is accepted that after 17.07.2020, the Instructions dated 17.07.2020 will operate then also the respondents have violated their own Instructions dated 17.07.2020 qua the

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promotions which have been made to the post of Assistant Professor. It is a conceded fact that the employees promoted to the post of Assistant Professor after the appointment of the petitioners in 2021, have been given the pay scale as envisaged under 2016 Rules, hence, the respondents cannot pick and choose as to when the 2016 Rules will be applicable or the Instructions dated 17.07.2020 will be applicable.

13. The scenario in the present cases is that all the appointees to the post of Assistant Professor prior to the appointment of the petitioners are enjoying the pay scale of the post as envisaged under 2016 Rules and even the promotees who have been promoted after the appointment of the petitioners, the Instructions dated 17.07.2020 have not been made applicable on them and their pay has been fixed according to the pay scale mentioned in 2016 Rules. This is clear case of pick and choose to apply 2016 Rules to some employees and Instructions to other employees, which cannot be permitted.

14. Hence, once the 2016 Rules governing the service which have a statutory force, are operational and prescribes a particular pay scale for the post being held by the petitioners and have not been amended so far, the same has to be made applicable by ignoring the Instructions dated 17.07.2020, which are contrary to 2016 Rules, hence the respondents are directed to grant the petitioners the pay scale as envisaged under 2016 Rules i.e. Rs.37,400 – 67,000/- + 8600/- Grade Pay.

15. As in CWP No. 20454-2024, some of the petitioners have been appointed as Associate Professors in pursuance to the Advertisement dated 22.05.2022, they will also be covered by the decision rendered here-inbefore, as the pay scale of the Associate Professor has also been described in 2016 Rules to mean Rs.37,400 – 67,000/- + 8900/- Grade Pay, which is not being extended to them.

16. Keeping in view the above, the present petitions are allowed. The respondents are directed to give the petitioners the pay scale which they are entitled under the 2016 Rules from the date of their direct appointment. The petitioners will also be entitled for arrears of salary as they have performed the duties for the post in question from the date of their direct appointment. Let the arrears be calculated and be extended to the petitioners within a period of eight weeks from the date of receipt of copy of this order

17. At this stage, learned counsel for the petitioners submit that though the petitioners have claimed interest but keeping in view the fact that they are only interested in the pay scale as entitled to them under 2016 Rules, they are not pressing

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- their claim for the grant of interest.
- 18. All the petitions are allowed in above terms.
- 19. Pending miscellaneous application, if any, also stands disposed of.
- 20. A photocopy of this order be placed on the file of connected cases.”

3. The petition is disposed of in terms of **Saurabh Sharma** (supra).

05.02.2025
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No