

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.1285 of 2020
Reserved on: 01.09.2026
Decided on: 29.09.2026
Uploaded on: 29.09.2026

Kripal Singh and others

...Petitioners

Versus

The H.P. Tourism Development Corporation

...Respondent

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹ Yes

For the petitioners: Mr. A.K. Gupta, Advocate.

For the respondent: Mr. Shivank Singh Panta, Advocate.

Jiya Lal Bhardwaj, Judge

The petitioners by way of present petition have prayed for the following substantive relief:-

“a That the respondents may be ordered to grant grade pay to the applicants at the rate of Rs.3200/- per month from the date of notification issued by the Govt. of H.P. in September, 2012, Annexure P-2.”

2. Shorn of unnecessary details, the key facts of the case are that the petitioners are Class-III employees working in various capacities with the respondent-Corporation such

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

as Captain, Waiter, Floor Assistant, Security Supervisor, Commi-I, Commi-III and Commi-IV. As per the decision taken by the Board of Directors of the respondent-Corporation in its meeting held on 10.11.1999, the categories of Waiter/Assistant Barman, Senior Floor Assistant, Assistant Receptionist and Commi-IV have been classified as Class-III categories with the pay scale of Rs.3120-5160/-. It has been averred that being Class-III employees, the petitioners are entitled to the grade pay of Rs.3200/- per month, whereas they are being paid grade pay of Rs.1900/- per month. The other similarly situate categories such as Clerk and Class-III employees serving in the respondent-Corporation have been given the benefit of grade pay of Rs.3200/- per month, while the said benefit has been denied to the categories of the petitioners. It has also been averred that as per Notification dated 27.09.2012, issued by the Government of Himachal Pradesh, the category of Clerk has been granted the grade pay of Rs.3200/- and the pay scale issued by the Government of Himachal Pradesh from time to time qua Class-III employees has also been given to the petitioners, but the benefit of grade pay has not been given so far, which amounts to arbitrariness.

3. The petitioners had represented to the management of the respondent-Corporation several times regarding their grievances and they were assured that the needful would be done, but so far nothing has happened and they are suffering a lot of loss continuously. This action on the part of the respondent-Corporation is in violation of Article 14 of the Constitution of India and not legally sustainable. As such, the petitioners have sought a direction to the respondent-Corporation to grant them grade pay at the rate of Rs.3200/- per month from the date of Notification issued by the Government of Himachal Pradesh.

4. The respondent-Corporation filed reply to the petition and in the preliminary submissions averred that the original application is not maintainable, since it was instituted before the erstwhile Himachal Pradesh Administrative Tribunal (in short 'Tribunal'). It does not disclose any valid cause of action against the respondent-Corporation and it has been filed on whimsical grounds and is based on mere conjectures and surmises. The petitioners were appointed with the respondent-Corporation in different capacities and are discharging their duties as such. The issue raised by them regarding grant of grade pay of

Rs.3200/- per month is not sustainable in the eyes of law. They are not entitled for the grade pay at par with Class-III employees working under the Government Department. The Recruitment and Promotion Rules (in short 'R&P Rules') pertaining to the petitioners are different as compared to their counterparts working under the Government Departments. The claim of the petitioners for grant of grade pay of Rs.3200/- per month is misconceived and not sustainable. It has also been averred that as per Notification dated 27.09.2012 (Annexure R-1), issued by the State Government in exercise of the powers conferred by Rule 9 of the Himachal Pradesh Civil Services (Category/Post-wise Revised Pay) Rules, 2012, 26 categories were added to the schedule and pay band and grade pay were fixed. The categories of the petitioners did not find mention in the said Notification issued by the State Government. Moreover, the Notification issued by the State Government is not *ipso-facto* applicable to the respondent-Corporation. However, pursuant to Notification dated 27.09.2012, the Board of Directors of the respondent-Corporation took a decision in its meeting held on 24.07.2013 regarding grant of revised grade pay to certain categories of employees. The

categories of the petitioners cannot be equated with the category of Class-III employees working under the Government Departments. As per the decision of the Board of Directors in its meeting held on 24.07.2013, out of 27 categories which find mention in the Notification dated 27.09.2012 (Annexure R-1) 15 categories of employees in the respondent-Corporation were granted the revised Grade pay as per the Government Notification dated 27.09.2012. Thereafter an office order dated 19.09.2013 was issued. It has further been averred that the respondent-Corporation is a company registered under the Companies Act and it has to work on profitable lines and cannot always act like a Government Department and thus, the claim raised by the petitioners seeking parity in the grade pay at par with the Class-III employees working under the State Government employees is not tenable in the eyes of law.

5. On merits, it has been averred that the Board of Directors of the respondent-Corporation had taken a decision that out of 26 categories, the respondent-Corporation is having 15 categories of employees, to whom the benefit of revised grade pay shall be applicable with effect from 01.10.2012. Since the categories of the

petitioners do not find mention in the Notification dated 27.09.2012, their grade pay has not been revised to Rs.3200/- per month. The respondent-Corporation has not denied the fact that the categories, which are getting the pay/scale of Rs.3120-5160/- have been classified as Class-III categories and they have been released the grade pay of Rs.3200/-.

6. The petitioners filed rejoinder to the reply and controverted the averments and also placed on record the decision of the Board of Directors of the respondent-Corporation, taken in its 122nd meeting, when the revised pay scale w.e.f. 01.01.2006 was adopted and released to the employees of the respondent-Corporation as well as dearness allowance. It has further been averred that after the implementation of the pay structure of the Government, the petitioner Sh. Kripal Singh was granted the grade pay of Rs.1900/- and this has been stepped up from time to time.

7. I have heard the learned counsel for the parties and also perused the record carefully.

8. Mr. A.K. Gupta, learned counsel representing the petitioners vehemently argued that once the respondent-Corporation was adopting the pay scales granted by the

State Government in the past and thereafter even as per Notification dated 27.09.2012 (Annexure P-2), the grade pay has been granted by the respondent-Corporation to few of the categories of their employees, which were mentioned in the Notification dated 27.09.2012, there is no justification to deny the said grade pay to the categories of petitioners only for the reason that their categories do not find mentioned in the Notification dated 27.09.2012. It was further argued that once the categories of the petitioners, who were getting the pay scale of Rs.3120-5160/-, were classified as Class-III categories, in that event, once the category of the Clerk has been granted the grade pay of Rs.3200/- after two years of regular service, the petitioners who are also Class-III employees, they ought to have been granted the same benefit. It was further argued that the categories of the petitioners have been denied the benefit of grade pay only on the ground that the said categories do not find mention/exist in the Notification dated 27.09.2012 and no other reason has been assigned. He further argued that the claim of the petitioners has not been rejected and thus the petitioners are entitled to the grade pay as granted to the category of Clerk, which is also a Class-III category.

9. On the other hand, Mr. Shivank Singh Panta, learned counsel representing the respondent-Corporation vehemently argued that so far as the grant of pay scale and grade pay is concerned it is not within the realm of the Court to equate and grant. It is the function and job of the executive and expert bodies like Pay Commission. He further argued that the respondent-Corporation had extended the benefit of the Notification dated 27.09.2012 to the categories, which were existing in the respondent-Corporation and once no call has been taken to extend the benefit to the categories of the petitioners, this Court while exercising the power of judicial review cannot give direction to the respondent-Corporation to extend the said benefit to them. He further strenuously argued that the Court cannot give direction that the pay scale and grade pay granted to one category of employees be also extended to the categories of other employees and thus, prayed for dismissal of the writ petition.

10. Learned counsel representing the respondent-Corporation placed reliance upon the judgments of the Hon'ble Supreme Court in ***Shri Ram Krishna Dalmia vs. Shri Justice S.R. Tendolkar and others***, AIR 1958 SC

538, **Punjab State Electricity Board and another vs. Thana Singh and others**, (2019) 4 SCC 113, **Union of India vs. Indian Navy Civilian Design Officers Association and Anr.**, (2023) 19 SCC 482, **Union of India and others vs. N. Murugesan and others**, (2022) 2 SCC 25, **Chairman, State Bank of India and another vs. M.J. James**, (2022) 2 SCC 301, **State of Madhya Pradesh vs. R.D. Sharma and Anr.**, Civil Appeal Nos.474-475 of 2022 (Arising out of SLP (Civil) Nos.547-548 of 2021), **The State of Maharashtra & Anr. vs. Bhagwan & Ors.**, Civil Appeal Nos.7682-7684 of 2021. He argued that as per the judgment passed by the Constitution Bench of the Hon'ble Supreme Court in **Ram Krishna Dalmia's** case (supra), it has been held that the Courts should borne in mind the principles while determining the validity of statute on ground of violation of Article 14 of the Constitution of India.

11. I have given my thoughtful consideration to the judgments cited at the Bar.

12. No doubt as per the judgment in **Ram Krishna Dalmia's** case (supra), the Courts have to keep in mind the principle while adjudging the constitutionality of any particular law attacked as discriminatory and violative of

equal protection of the laws, but at the same time, if there is discrimination and arbitrary action on the part of the Government or its instrumentality, the Court can definitely step in to ward off the inequality and can give appropriate directions.

13. Learned counsel for the respondent-Corporation while placing reliance upon the judgment passed in **N. Murugesan's** case (supra) had stressed that since the petitioners have not approached the Court within reasonable time after adoption of the Notification dated 27.09.2012, which was adopted by the Board of Directors of the respondent-Corporation in its meeting held on 24.07.2013, whereas, the petition has been instituted on 29.12.2016, the petitioners are not entitled to the relief claimed in the petition. No doubt as per the aforesaid judgment passed by the Hon'ble Supreme Court, it has been held that the delay is the genesis to which laches and acquiescence are species and they are to be applied by way of practice requiring prudence of the Court than of a strict application of law. However, in the present case denial of the grade pay to the petitioners is affecting the petitioners every month when they are getting less pay only on account of the fact that the

respondent-Corporation has not extended the grade pay to the categories of the petitioners only on the ground that the Notification of the State Government does not find mention the categories of the petitioners, ignoring the fact that the categories of the petitioners have been classified as Class-III categories and further a perusal of the office order dated 22.11.1999 (Annexure P-1) clearly mentions that the categories which are getting the pay scale of Rs.3120-5160/- are classified as Class-III categories and once the petitioners have been getting the pay scale of Rs.3120-5160/- and also classified as Class-III categories, denying them the grade pay of Rs.3200/- is unjust, arbitrary and discriminatory.

14. The Hon'ble Supreme Court in ***Union of India and others vs. Tarsem Singh***, (2008) 8 SCC 648 has aptly considered the doctrine of laches and limitation in the case, where it relates to payment or fixation of pay or pension and has held that the said relief can be granted in spite of delay as it does not affect the rights of third parties. The relevant para of the judgment reads as under:-

"7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to

the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition."

15. A perusal of the aforesaid para clearly reveals that in case the issue relates to the payment or refixation of pay or pension, the relief may be granted in spite of delay, as it does not affect the rights of third parties, but the Court will restrict the consequential reliefs relating to arrears normally to a period of three years prior to the date of filing the writ petition. As already observed above, by not granting the grade pay of Rs.3200/- to the petitioners, they are being

affected every month and thus, a cause of action is recurring and the judgments cited by the learned counsel for the respondent-Corporation does not help to advance his cause.

16. Learned counsel for the respondent-Corporation has further vehemently argued that as per the judgments passed by the Hon'ble Supreme Court in ***R.D. Sharma's*** case (supra), ***Indian Navy Civilian Design Officers Association's*** case (supra) the Courts should not enter upon the task of job evaluation, which is generally left to the expert bodies like Pay Commission which undertakes the rigorous exercise for job evaluation after taking into consideration several factors like nature of work, duty, accountability and responsibility attached to the post and thus, the Court cannot give direction to the respondent-Corporation to grant the grade pay as granted to other categories.

17. The contention raised by the learned counsel for the respondent-Corporation to the effect that the Courts cannot embark upon the equation of pay scale is correct, but at the same time, the Courts cannot remain silent, especially when the employer has not extended the benefit to some of the categories, though the said benefit has been extended

to other categories who are serving with it. In this regard, a reference is made to the judgment of the Hon'ble Supreme Court in ***Union of India vs. Dineshan K.K.***, (2008) 1 SCC 586, wherein it has been held that no doubt the equation of posts and equation of pay structure being complex matters are generally left to the executive and expert bodies like the Pay Commission etc. Nonetheless, it will not be correct to lay down as an absolute rule that merely because determination and granting of pay scale is the prerogative of the executive, the Court has no jurisdiction to examine any pay structure and an aggrieved employee cannot be left with no remedy if he is unjustly treated by the arbitrary action or inaction of the State, except to go on knocking at the doors of the executive or the legislature. The relevant paras of the judgment read as under:-

"13. Initially, particularly in the early eighties, the said principle was being applied as an absolute rule but realizing its cascading effect on other cadres, in subsequent decisions of this Court, a note of caution was sounded that the principle of equal pay for equal work had no mathematical application in every case of similar work. It has been observed that equation of posts and equation of pay structure being complex matters are generally left to the Executive and expert bodies like the Pay Commission etc. It has been emphasized that a carefully evolved pay structure ought not to be ordinarily disturbed by the Court as it may

upset the balance and cause avoidable ripples in other cadres as well. (Vide: Secretary, Finance Department Vs. W.B. Registration Service Association and State of Haryana Vs. Haryana Civil Secretariat Personal Staff Association . Nevertheless, it will not be correct to lay down as an absolute rule that merely because determination and granting of pay scales is the prerogative of the Executive, the Court has no jurisdiction to examine any pay structure and an aggrieved employee has no remedy if he is unjustly treated by arbitrary State action or inaction, except to go on knocking at the doors of the Executive or the Legislature, as is sought to be canvassed on behalf of the appellants. Undoubtedly, when there is no dispute with regard to the qualifications, duties and responsibilities of the persons holding identical posts or ranks but they are treated differently merely because they belong to different departments or the basis for classification of posts is ex-facie irrational, arbitrary or unjust, it is open to the Court to intervene.

14. In SBI v. M.R. Ganesh Babu a three-Judge Bench of this Court, dealing with the same principle, opined that principle of equal pay is dependent upon the nature of work done. It cannot be judged by the mere volume of work; there may be qualitative difference as regards reliability and responsibility. The functions may be the same but the responsibilities do make a difference. It was held that the judgment of administrative authorities, concerning the responsibilities which attach to the post, and the degree of reliability expected of an incumbent, would be a value judgment of the authorities concerned which, if arrived at bona fide, reasonably and rationally, was not open to interference by the Court.

15. In State of Haryana v. Tilak Raj it has been observed that the principle of “equal pay for equal work” is not always easy to apply as there are inherent difficulties in comparing and evaluating the work of different persons in different organizations or even in the same organisation. It has been reiterated that this is a

concept which requires for its applicability, complete and wholesale identity between a group of employees claiming identical pay scales and the other group of employees who have already earned such pay scales. It has been emphasized that the problem about equal pay cannot be translated into a mathematical formula.

16. Yet again in a recent decision in State of Haryana v. Charanjit Singh, a Bench of three learned Judges, while affirming the view taken by this Court in the cases of State of Haryana v. Jasmer Singh, Tilak Raj, Orissa University of Agriculture & Technology & Anr. v. Manoj K. Mohanty and Govt. of W.B. v. Tarun K. Roy has reiterated that the doctrine of equal pay for equal work is not an abstract doctrine and is capable of being enforced in a court of law. Inter alia, observing that equal pay must be for equal work of equal value and that the principle of equal pay for equal work has no mathematical application in every case, it has been held that Article 14 permits reasonable classification based on qualities or characteristics of persons recruited and grouped together, as against those who are left out. Of course, the qualities or characteristics must have a reasonable relation to the object sought to be achieved. Enumerating a number of factors which may not warrant application of the principle of equal pay for equal work, it has been held that since the said principle requires consideration of various dimensions of a given job, normally the applicability of this principle must be left to be evaluated and determined by an expert body and the Court should not interfere till it is satisfied that the necessary material on the basis whereof the claim is made is available on record with necessary proof and that there is equal work and equal quality and all other relevant factors are fulfilled.

17. Tested on the touchstone of the aforementioned broad guidelines and not cast-iron imperatives, we are of the opinion that in the present case, on the pleadings and the material placed on record by the parties in support of their respective stands, the High Court was justified in issuing the impugned directions.”

18. In the present case, the categories of the petitioners have not been extended the benefit of grade pay of Rs.3200/- only for the reason that the said categories do not find mention in the Notification dated 27.09.2012 issued by the State Government. Once the respondent-Corporation has classified the categories of the petitioners as Class-III categories, it is bound to extend the grade pay of Rs.3200/- to the petitioners and in not doing so, grave injustice has been caused to them and further, the action is arbitrary and discriminatory.

19. In another judgment passed by the Hon'ble Supreme Court in ***Haryana State Minor Irrigation Tubewells Corporation and others vs. G.S. Uppal and others***, (2008) 7 SCC 375, it has been held that the Courts would interfere if pay fixation is unreasonable, unjust and prejudicial to a section of employees and taken in ignorance of material and relevant factors. The relevant para of the judgment reads as under:-

"21. There is no dispute nor can there be any to the principle as settled in the above cited decisions of this Court that fixation of pay and determination of parity in duties is the function of the Executive and the scope of judicial review of administrative decision in this regard

is very limited. However, it is also equally well settled that the courts should interfere with the administrative decisions pertaining to pay fixation and pay parity when they find such a decision to be unreasonable, unjust and prejudicial to a section of employees and taken in ignorance of material and relevant factors. (See K.T. Veerappa v. State of Karnataka)."

20. A three-Judge Bench of the Supreme Court in ***State of Punjab and others vs. Senior Vocational Staff Masters Association and others***, (2017) 9 SCC 379 has held that if State is giving some economic benefits to one class while denying same to other, then onus of justifying same lies on State, when both classes were treated as same in the past. The relevant paragraphs of the judgment read as under:

"24. It is evident that at the time of initial appointment, both the degree holders and the Diploma holders were appointed by a common process of selection where for the engineering trade a degree was required and for the non-engineering trade a diploma was considered as the appropriate qualification. A common advertisement was issued and a common process of selection led to the appointment of all persons who were designated as Vocational Masters. They were appointed on a pay scale higher than the general lecturers. They continued to draw a higher scale till the year 1978 when the pay scale of the general lecturers was brought at par with the pay scale of the Vocational Masters. It is only in the year 1995 that an effort was made by the State Government to create a distinction between the degree holders as vocational lecturers and diploma holders as vocational masters.

25. Further, since the very inception, the educational qualification for appointment as Vocational Masters had been a degree or a diploma with three years' experience as both the qualifications were placed at par. All persons were appointed by a common process of selection and they teach the same classes, performing the same work. No distinction can be brought about between the persons so appointed. It is only subsequently that the appellants designated some of the Vocational Masters as Vocational Lecturers and brought about an artificial distinction between the two. Even on account of re-designation of the degree holders and post graduates as vocational lecturers, there was no change in the responsibilities and the financial matters as between the degree holders and diploma holders before the alleged Notification which fact is duly admitted by the State. There is no distinction between the vocational lecturers and vocational masters and they form one unified cadre and class. There cannot be any discrimination between similarly situated persons, whether by way of a government notification or any amendment in the Rules. As far as nature of work is concerned, it is stated that the vocational masters are discharging their duty in the Senior Secondary Schools in the engineering/non-engineering trades and have the technical qualifications while the vocational lecturers are also discharging the same duties in the same schools. Both vocational masters and lecturers are teaching the same classes, i.e., 10+1 and 10+2 and hence the nature of work, responsibilities and duties being identical and the pay scales were also kept identical since 1978 onwards.

26. The principle of equality, is also fundamental in formulation of any policy by the State and the glimpse of the same can be found in Articles 38, 39, 39A, 43 and 46 embodied in Part IV of the Constitution of India. These Articles of the Constitution of India mandate that the State is under a constitutional obligation to assure a social order providing justice- social, economic and political, by inter alia, minimizing monetary inequalities,

and by securing the right to adequate means of livelihood and by providing for adequate wages so as to ensure, an appropriate standard of life, and by promoting economic interests of the weaker sections. Meaning thereby, if the State is giving some economic benefits to one class while denying the same to other then the onus of justifying the same lies on the State specially in the circumstances when both the classes or group of persons were treated as same in the past by the State. Since Vocational Masters had been drawing same salary as Vocational Lecturers were drawing before the application of 4th pay commission, any attempt to curtail their salary and allowances would amount to arbitrariness which cannot be sustained in the eyes of law if no reasonable justification is offered for the same.

27. We are conscious of the fact that a differential scale on the basis of educational qualifications and the nature of duties is permissible. However, it is equally clear to us that if two categories of employees are treated as equal initially, they should continue to be so treated unless a different treatment is justified by some cogent reasons. In a case where the nature of duties is drastically altered, a differential scale of pay may be justified. Similarly, if a higher qualification is prescribed for a particular post, a higher scale of pay may be granted. However, if the basic qualifications and the job requirements continued to be identical as they were initially laid down, then the Court shall be reluctant to accept the action of the authority in according a differential treatment unless some good reasons are disclosed. Thus, the decisions relied upon by learned senior counsel are clearly distinguishable and are not applicable to the facts of the present case.

Conclusion

28. In view of the forgoing discussion, we are of the considered opinion that the High Court was fully justified in declaring that the Vocational Masters are entitled to pay scale of Rs.6,400-10,640 on the ground

that the nature of duties being discharged by the Vocational Masters are the same as Vocational Lecturers and that there was no rationale behind making a classification between the two especially when both the categories were treated as one and the same in all the previous pay revisions since 1978 onwards. Vide notification dated 31-3-1995, only the nomenclature of Vocational Masters was changed without changing their nature of duties and pay scales. Further, the impugned order dated 16-7-2003 deserves to be quashed on the short ground that it has been passed without complying the rules of natural justice. The same could not have been passed without giving an opportunity of hearing to the employees concerned."

21. Again the Hon'ble Supreme Court in ***Union of India & others vs. D.G.O.F. Employees Association and another***, 2023 (15) Scale 293, has reiterated the view that the Courts can embark upon the equation of the pay scale in case the entitlement has been denied due to irrational consideration without application of mind to the facts involved in the case by the employer. The relevant paras of the judgment read as under:

"10. A cumulative perusal of the opinion expressed by this Court would indicate that though the Courts would not undertake the exercise of determining the pay scale keeping in view the nature of the work by comparing employees who are not similarly placed in cases where the exercise of determining such complex issues would arise, at the same time, relief cannot be denied to the employees when the entitlement is denied due to irrational consideration without application of mind to the facts involved in the case by the employer, thereby denying the benefits to the employees. If this aspect of

the matter is kept in view, a perusal of the consideration made by the High Court as seen from the portion reproduced above from the judgment of the High Court, it would disclose that the High Court has not undertaken the exercise regarding which restraint has been expressed by this Court. However, on the admitted facts and the earlier situation which existed, a consideration has been made keeping in view the very recommendation of the Pay Commission in reckoning the appropriate application of the pay scale. In that regard, all that has been adverted to by the High Court is as to whether the employees who are the members of the respondent and are employed in the headquarters are similarly placed as that of the employees of CSS/CSSS and in that regard has considered the matter further to ensure that the members of the respondent are not discriminated upon.

11. In that view of the matter what is to be taken into consideration is as to whether in the facts and circumstances of the present case the High Court was justified in arriving at the conclusion that the provision contained in para 3.1.9 of the Sixth CPC would apply to the fact situation and in that regard whether it had rightly rejected the contention of the appellant herein that it ought to have been guided by para 3.1.14 of the recommendations. The contention as noted by the High Court is what was urged before us. In that regard, at the outset it is necessary to clarify that the conclusion as reached with regard to the parity in pay scale in the case of the employees who are members of the first respondent is basically due to the fact that they are employees in the headquarters of the Ordnance Factory and therefore they are similarly placed as that of the Assistants in CSS/CSSS Army Headquarters as well as such other similarly placed organisations referred to in the recommendations. If that be the position, the conclusion as reached by the High Court is unexceptionable.

15. Be that as it may, in the present facts the perusal of the judgment passed by the High Court impugned

herein would indicate that the High Court having kept in view the legal, as well as the factual aspects, has not proceeded in a manner so as to equate two sets of employees in different organizations. But, keeping in view the recommendation of the Pay Commission and the applicability of the pay scales recommended to similarly placed employees employed in the headquarters and on noticing discrimination despite historical similarity has merely rectified the error, which does not call for interference."

22. In the present case too, the respondent-Corporation has not assigned any cogent reason in denying the benefit of grade pay of Rs.3200/- to the categories of the petitioners except that the categories of the petitioners did not find mentioned in the Notification of the Government dated 27.09.2012. It has not been denied that the petitioners were granted the pay scale of Rs.3120-5160/- and further their categories have been classified as class-III categories. Once the respondent-Corporation has granted the grade pay of Rs.3200/- to class-III categories and further to those employees who were getting the pay scale of Rs.3120-5160/-, there is no justification to deny the said grade pay to the categories of the petitioners. Thus, the action on the part of the respondent-Corporation in not granting the grade pay of Rs.3200/- to the categories of the petitioners is arbitrary, discriminatory and unconstitutional.

23. The petitioners have though claimed the relief to grant them the benefit of grade pay of Rs.3200/- per month from the date of Notification dated 27.09.2012 issued by the State Government, but the said benefit cannot be extended to them from the said date in view of the fact that they have approached the Tribunal on 29.12.2016. As per the dictum of the Hon'ble Supreme Court in **Tarsem Singh's** case (supra), they are held entitled to the arrears only from three years prior to the date of institution of the present petition, i.e. w.e.f. 01.01.2014.

24. Consequently, the present petition is allowed and the respondent-Corporation is directed to grant the grade pay of Rs.3200/- to the categories of the petitioners w.e.f. 01.01.2014 within six months from today and in case the arrears are not paid within the aforesaid period, the respondent-Corporation shall pay the interest at the rate of 6% per annum w.e.f. 01.01.2014 till actual payment. No order as to costs. Pending applications, if any, also stand disposed of.

29th September, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**