

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.2242 of 2019

Decided on: 25th September, 2026

Vijay Rani Gupta

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹ **Yes**

For the petitioner: Mr. Manish Sharma, Advocate.

For the respondents: Mr. Hemant Kumar Verma, Deputy
Advocate General.

Jiya Lal Bhardwaj, Judge (Oral)

The petitioner by way of present petition has
prayed for the following substantive reliefs:-

*"(i) That the letter dated 10.04.2008, Annexure P-13, and order dated 6.5.2009, Annexure P-18, vide which the claim of petitioner for equal pay for equal work has been denied, may kindly be quashed and set aside;
(ii) That the respondents may be directed to allow to the petitioner pay scale of Rs.1350-2400 with effect from the date of her appointment as Art/ Craft Teacher with corresponding revision of pay scale with effect from 1.1.1996 and 1.1.2006, with all consequential benefits including arrears of salary and interest on delayed*

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

payments;"

2. Shorn of unnecessary details, the key facts of the case are that the petitioner, after acquiring two years Diploma in Tailoring from ITI, Shimla in the year 1982, got her name registered with the Employment Exchange, Shimla on 14.10.1982. The name of the petitioner was sponsored by the Employment Exchange for the post of Junior Tailoring Mistress/Master, Class-III in the pay scale of Rs.510-940 in the Department of Rural Development, Himachal Pradesh. The Himachal Pradesh Public Service Commission (in short "HPPSC"), vide communication dated 12.08.1991 (Annexure P-4), issued a call letter to the petitioner for recruitment to the post of Junior Tailoring Mistress/Master, Class-III in the pay scale of Rs.510-940 in the Department of Rural Development, Himachal Pradesh and she was asked to appear for the interview on 09.09.1991.

3. The petitioner appeared in the interview on 09.09.1991 and her name was recommended for appointment, but she was appointed by respondent No.2 to

the post of Art/Craft Teacher as per appointment letter dated 16.10.1991 (Annexure P-5), in the pay scale of Rs.950/- per month plus other allowances as admissible under the Rules of Government of Himachal Pradesh in the pay scale of Rs.950-25-1200-30-1560-40-1800. In sequel to the said appointment letter, the petitioner joined her duties on the post of Art/Craft Teacher. However, later on, after noticing that there was an anomaly in the pay scale of Art and Craft Teacher/Junior Tailoring Mistress, the petitioner made a representation on 03.02.1994 (Annexure P-9) to the State Government, mentioning therein that the pay scale of Craft Teacher/Junior Tailoring Mistress in the Department of Education and Technical Education Department is higher. In Education Department, the pay scale of Art and Craft Teacher is Rs.1500-2640 and in the Technical Education Department, Junior Tailoring Mistress is granted the pay scale of Rs.1640-2925 and Rs.1800-3200 in Grade-II and Grade-I, respectively, in the ratio of 50:50 w.e.f. 13.05.1991 and since the petitioner is possessing the essential qualification to hold the post and the

procedure of recruitment for the posts was through the HPPSC and further, after selection, the nature of work, duties and responsibilities in all the above Departments are also same, the post of Craft Teacher in the Agriculture Department is a single post, thus, anomaly in the pay scale may be removed and the petitioner be brought on pay scale with the Craft Teacher/Junior Tailoring Mistress in the Department of Education and Technical Education Department. However, the representation made by the petitioner came to be turned down vide communication dated 23.08.1995 (Annexure P-10) on the ground that the proposal was against the Punjab pattern.

4. Thereafter, the petitioner made a representation on 13.10.2003 (Annexure P-11) to respondents No.1 and 2, stating therein that the pay scale before 01.01.1996 in the Rural Integrated Department for the post of Craft Teacher/Junior Tailoring Mistress was Rs.1365-2410, which was later on revised to Rs.4400-7000, whereas in the Agriculture Department, the pre-revised pay scale was of

Rs.950-1800, which was revised to Rs.3120-5160 and since in the Agriculture Department, the pay scale of the post of Craft Teacher is the lowest, whereas the scale in other Departments is much higher and further there is only a single post of Craft Teacher and there are no further chances of promotion to the next higher post in the cadre, her matter may kindly be examined at departmental level and the anomaly may be removed, since the petitioner is discharging the same duties and responsibilities and further possessing the same qualifications, her claim to grant her the pay scale as granted to the Junior Tailoring Mistress/Craft Teacher in Rural Integrated Department may be extended to her.

5. Respondent No.2, after receipt of the representation forwarded the same to respondent No.1, specifically stating that since the educational qualification of the petitioner is same, she may be allowed the pay scale, as granted in other Departments. However, her request came to be rejected, vide communication dated 10.04.2008 (Annexure P-13), mentioning therein that the pay scale of Rs.3120-5160

has been revised in relation to the pre-revised pay scale of Rs.950-1800 on the post of Craft Teacher w.e.f. 01.01.1996 in accordance with the prescribed norms for revision of pay scale and there is no anomaly in the pay scale of the post of Craft Teacher.

6. The petitioner again made a representation regarding removal of anomaly in the pay scale, which again came to be rejected, vide communication dated 06.05.2009 (Annexure P-18), observing that the Department had sent requisition to the HPPSC for filling up one post of Craft Teacher in the pay scale of Rs.950-1800 and name of the petitioner was recommended by the Commission for the post of Craft Teacher and the pay scale of Rs.3120-5160 has been revised in relation to pre-revised pay scale of Rs.950-1800 on the post of Craft Teacher with effect from 01.01.1996 in accordance with the prescribed norms for revision of pay scale and, therefore, there is no anomaly in the pay scale of the post of Craft Teacher.

7. The petitioner feeling aggrieved by the rejection

of her claim to grant her the pay scale of Rs.1350-2400 with effect from the date of her appointment as Art/Craft Teacher, which pay scale was given to the Craft Teacher/Junior Tailoring Mistress in the Rural Integrated Department, has approached this Court *inter alia* on the grounds that since the petitioner was appointed as Craft Teacher in Agriculture Department pursuant to an interview conducted by the HPPSC for the post of Junior Tailoring Mistress/Master in the pay scale of Rs.510-940 and the Recruitment and Promotion Rules (in short "R&P Rules") for the post in Education Department, Rural Development Department and Agriculture Department would go on to show that the essential qualification for the post of Art/Craft Teacher and Junior Tailoring Mistress etc. in all three Departments is comparable inasmuch as the duties and responsibilities of the aforesaid three Departments are also comparable and there is no post of Junior Tailoring Mistress/Tailoring Mistress in the Agriculture Department in Punjab and on the principle of equal pay for equal work, the petitioner is entitled to the

same treatment as given to the Craft Teacher/Junior Tailoring Mistress, Class-III in the Rural Development Department.

8. It has specifically been averred in the grounds that the R&P Rules for the post of Craft Teacher in Agriculture Department, as also the R&P Rules for the post of Junior Tailoring Mistress/Master in the Rural Development Department as well as the rules for the post of Art and Craft Teacher in the Education Department, prescribe the same qualification for these posts in all three Departments and further since the petitioner is discharging the duties in State Agriculture Management Extension and Training Institute, Mashobra, her duties are comparable to the post of Junior Tailoring Master/Mistress in the Rural Development Department as also to the post of Art and Craft Teacher in the Department of Education. Therefore, on the principle of equal pay for equal work, the petitioner is entitled to parity in pay scale with the Junior Tailoring Mistress in the Rural Development Department, if not with the post of Art and Craft Teacher in Education Department, where the pay scale

of the post of Art and Craft Teacher was Rs.1500-2700 prior to 01.01.1996 and revised pay scale of Rs.5000-8100 w.e.f. 01.01.1996.

9. On the basis of the aforementioned averments, a prayer has been made that the petitioner may be allowed the pay scale of Rs.1350-2400 with effect from the date of her appointment as Art/Craft Teacher, with corresponding revision of pay scale w.e.f. 01.01.1996 and 01.01.2006 respectively, with all consequential benefits and interest on the delayed payments.

10. The respondents filed reply to the petition and in preliminary submissions averred that the petitioner was appointed as Craft Teacher in the pay scale of Rs.950-1800, which was revised to Rs.3120-5160 w.e.f. 01.01.1996 in accordance with the prescribed norms for revision of pay scale. The Government of Himachal Pradesh adopts the pay scale being given by Punjab Government to its employees. The pay scale granted to the Craft Teachers working in Agriculture Department w.e.f. 22.10.1991 was Rs.950-1800,

which was further revised to Rs.3120-5160 w.e.f. 01.01.1996 accordingly. In the year 1991, the post of Craft Teacher was being filled up through the HPPSC. The concerned Departments, who required the services of Craft Teachers, placed their requirement with the HPPSC and the select list of candidates was supplied to the requisitioning Departments, who further issued the appointment orders. In the appointment order, the pay scale of the post was also given and it is the *bonafide* act of the selected candidate to accept the offer of appointment in the pay scale mentioned therein. The petitioner was allotted the Agriculture Department and as such she also accepted the appointment in the Department of Agriculture as Craft Teacher in the pay scale of Rs.950-1800 (now Rs.3120-5160), hence, the claim of the petitioner is not maintainable and is liable to be dismissed.

11. On merits, it was averred that the Government of Himachal Pradesh also adopts the pay scale being given by the Punjab Government and the pay scale granted to the Craft Teachers working in the Agriculture Department was

Rs.950-1800, which was further revised to Rs.3120-5160 w.e.f. 01.01.1996. It was not disputed that the R&P Rules of different Departments for the post of Craft Teacher are almost the same and the qualifications are also identical. It was also admitted that there is a single post of Craft Teacher in the Department of Agriculture and there is no promotional avenue for the petitioner, but in accordance with the Government policy, the petitioner was allowed the higher pay scale of Rs.4020-6200 after completion of 8 years of service w.e.f. 22.10.1991 and proficiency increment after completion of 16 years of continuous service on the post of Craft Teacher w.e.f. 22.10.2007. The averments made by the petitioner in the petition that she possesses the qualification to be appointed as Junior Tailoring Master/Mistress and further she is discharging the same duties and functions as discharged by Craft Teachers/Junior Tailoring Master/Mistress in other departments, have not been specifically denied by the respondents, while filing reply to the petition.

12. The petitioner filed rejoinder to the reply and

controverted the averments made therein and reiterated the stand taken in the petition.

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

14. It is not in dispute that the petitioner possesses the qualification to hold the post of Junior Tailoring Mistress/Master, Class-III. It is also not in dispute that the petitioner was issued the interview letter dated 12.08.1991, by the HPPSC for the post of Junior Tailoring Mistress/Master, Class-III in the pay scale of Rs.510-940 in the Department of Rural Development, Himachal Pradesh. However, later on, the petitioner was offered the appointment in the Agriculture Department, vide office order dated 16.10.1991 (Annexure P-5) and she joined on the said post.

15. The petitioner, to remove the anomaly in the pay scale of Craft Teacher/Junior Tailoring Mistress, had represented the State Government on 03.02.1994 (Annexure P-9), mentioning therein that the essential qualification and

procedure of recruitment for the post in the Department of Rural Integrated Development and Panchayati Raj are the same and further after selection, the nature of work, duties and responsibilities in the Department are also same and, therefore, the anomaly in the pay scale may be removed, which came to be rejected mainly on the ground that since the petitioner was appointed in the pay scale of Rs.950-1800, which was revised to Rs.3120-5160, she cannot be granted the pay scale of Rs.1365-2410, which was granted to the Craft Teachers in the Rural Integrated Department.

16. Learned counsel for the petitioner has vehemently argued that since the petitioner was issued the call letter for the post of Junior Tailoring Mistress/Master, Class-III, in the pay scale of Rs.510-940 in the Department of Rural Development, Himachal Pradesh and further the petitioner is possessing the essential qualification to hold the post, even though she was appointed in the Agriculture Department, once she is discharging the same duties, functions and responsibilities as discharged by Craft Teachers/Junior

Tailoring Mistress/Master, which fact has not been denied by the respondents in their reply to the petition, the petitioner is entitled to the pay scale of Rs.1350-2400 on the principle of equal pay for equal work.

17. On the other hand, learned Deputy Advocate General has vehemently contended that so far as grant of pay scale is concerned, it is not within the realm of the Court and it is for the executive or the expert bodies such as Pay Commission to prescribe the pay scale. He further argued that even if the qualifications prescribed in the R&P Rules in different Departments are same, the same cannot be a ground to grant the same pay scale to the petitioner, who admittedly was appointed in the scale of Rs.950-1800, which was specifically mentioned in her appointment letter dated 16.10.1991. He further argued that once the petitioner had accepted the said pay scale, thereafter she cannot claim that she may be granted the pay scale as granted to the Junior Tailoring Mistress/Art and Craft Teachers in other Departments.

18. Learned counsel for the petitioner has placed reliance upon the judgment of the Hon'ble Supreme Court in ***Randhir Singh vs. Union of India***, (1982) 1 SCC 618 and the judgment passed by this Court in CWPOA No.172 of 2019, titled ***Roshan Lal and others v. State of Himachal Pradesh and another***, and argued that the petitioner on the principle of equal pay for equal work, is entitled to the pay scale of Rs.1350-2400, which is being granted to the counterparts of the petitioner, who are working in the Rural Development Department, though in the Education Department, the Art and Craft Teachers have been granted the pay scale of Rs.1500-2640 and in the Technical Education Department the Junior Tailoring Mistresses are being granted the pay scale of Rs.1640-2925 and Rs.1800-3200 in Grade-II and Grade-I respectively, in the ratio of 50:50.

19. The Hon'ble Supreme Court in the aforementioned judgment passed in ***Randhir Singh's*** case (supra) has succinctly dealt with the issue and has held that the principle of equal pay for equal work is not a mere

doctrine slogan, but a constitutional goal, capable of being attained through constitutional remedies and this principle has to be read with Articles 14 and 16 of the Constitution of India.

20. Once the respondents have not disputed the fact that the petitioner was initially issued the call letter for interview to the post of Junior Tailoring Mistress in the Department of Rural Development, Himachal Pradesh, as evident from a perusal of the call letter dated 12.08.1991 (Annexure P-4) and further the petitioner is also possessing the same and similar qualifications as prescribed for the post of Art and Craft Teacher as well as Junior Tailoring Mistress/Master in other Departments and also discharging the same and similar duties, functions and responsibilities, which fact has not been denied, thus, the petitioner is at least entitled to the pay scale of Rs.1350-2400 from the initial date of her appointment, though she was offered the appointment to the post of Art and Craft Teacher. Even if the petitioner did not object to her appointment to the post of Art

and Craft Teacher, but since she is discharging the same and similar duties, functions and responsibilities as being discharged by other employees, who are working in other Departments, the petitioner is at least entitled to the pay scale of Rs.1350-2400 and if not the pay scale of Rs.1500-2700 as granted to the Art and Craft Teachers employed in the Education Department.

21. Learned Deputy Advocate General has vehemently argued that once the petitioner had accepted the appointment as Art and Craft Teacher on a pay scale of Rs.950-1800, she cannot now claim that she ought to have been offered the appointment in the pay scale of Rs.1365-2410. However, the said contention cannot be accepted for the reason that the respondents, while filing reply to the petition, have not denied the contents of the petition, more particularly ground (C), in which the petitioner has specifically mentioned that the R&P Rules for the post of Art and Craft Teacher in the Agriculture Department as also the R&P Rules for the post of Junior Tailoring Master/Mistress in the

Department of Rural Development Department and Education Department prescribe the same essential qualification for these posts in three Departments, which are comparable and further the petitioner has also been engaged in instructing the rural/ agricultural women and she is discharging the duties qualitatively and quantitatively comparable to the post of Junior Tailoring Master/Mistress in the Rural Department and also to the post of Art and Craft Teacher in the Department of Education. The duties and responsibilities performed by her are qualitatively and quantitatively comparable to the corresponding posts in the Rural Development Department and Education Department and thus, she is at least entitled to the pay scale of Rs.1350-2400 as granted to Junior Tailoring Mistresses in the Rural Development Department before 01.01.1996 and after 01.01.1996 and thereafter in the pay scale of Rs.4400-7000 w.e.f. 01.01.1996.

22. Learned Deputy Advocate General has argued that the grant of pay scale is not within the domain of this Court

and it is only for the executive and the expert bodies to prescribe the pay scale. As far as this submission is concerned, no doubt this Court cannot venture into the equation of the pay scales, but at the same time, once an employee is discharging the same and similar duties and further possesses the similar qualifications as held by the employees in other Departments, the Court cannot be a mute spectator and has to redress the grievance of an employee. A reference in this regard is made to the judgment in ***Union of India and others vs. D.G.O.F. Employees Association and another***, 2023(15) Scale 293, wherein it has been held that undoubtedly where 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 or post is *ex facie* irrational, arbitrary or unjust, it is open to the Court to intervene. The relevant paragraphs of the judgment read as under:

"9. The learned senior counsel for the respondents on the other hand has referred to the decision of this Court in Union of Indians. Dineshan K.K. (2008) 1 SCC 586 wherein it is held that though 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. and the 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, 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 cannot be left with 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. It is further held therein that 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 or post is ex facie irrational, arbitrary or unjust it is open to the Court to intervene.

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.

12. However, the learned senior counsel for the appellant in order to buttress his contention that para

3.1.14 of the recommendations would apply has sought to rely on the decision of this Court in *Union of India and Others vs. Manoj Kumar and Others Civil Appeal Nos.913-914 of 2021* disposed of on 31.08.2021 wherein this court while examining the very same provision as contained in paras 3.1.9 and 3.1.14 had arrived at the conclusion that the benefit of equal pay in the said case cannot be extended and had held that the Pay Commission, which is a specialised body set up with the objective of resolving anomalies had made its recommendation, which would not call for interference. The decision would indicate that this Court though had referred to the very paragraph as contained in the Sixth CPC recommendations, what had however arisen for consideration therein was with regard to disparity between Secretariat and Field Officers. What was noted in that case was the claim made by Private Secretaries Grade II employed in Eastern Central Railways (Field Office/Zonal Railways) for parity in pay with their counterparts working in the Central Secretariat Stenographers Service/Railway Boards Secretariat Stenographers Service/Central Administrative Tribunal. In that view, this Court was of the view that though there is an observation that the recommendations shall apply *mutatis mutandis* to Private Secretaries and posts equivalent thereto in the service under para 3.1.9; the subsequent para 3.1.14 has specifically dealt with the aspect of parity between the Field and Secretariat Offices which was really the subject matter of the claim therein. The said observation, though emphasised by the learned senior counsel for the appellant would indicate that it is not a consideration akin to the consideration herein. As seen from the highlighted portion of the reproduced paragraphs from the impugned order passed by the High Court hereinabove, it would disclose that in the instant facts the reliance placed by the High Court on para 3.1.9 is based on the fact that there was similarity inasmuch as the pay scale

as sought for implementation is the one which was provided to the employees of the headquarters as they were similarly placed as the employees of the headquarters in CSS/CSSS.

13. Further, what was also taken into consideration by the High Court is the historical similarity in pay scales which existed prior to the recommendations in the Sixth CPC. Such historical similarity which had existed was taken note and, in that light, the pay scale which was applicable was taken into consideration and had accordingly arrived at the conclusion that the employees in the headquarters of the Ordnance Factories being similarly placed cannot be discriminated. Therefore, such consideration in the instant case would fall within the parameters as permitted by this Court. Also, in the present circumstance, the High Court has adverted to the fact situation and has thereby rectified the pay anomaly. In fact, the question of parity with regard to the pay scale to the Assistants in the lower formations in the Indian Navy with that of the Assistants in CSS was held as discriminatory and violative of Article 14 of the Constitution by this Court in the case of All India Naval Clerks Association and Others vs. Union of India and Others in Civil Appeal arising out of Special Leave Petition (Civil) No.29204 of 2019 dated 27.07.2022.

14. As noted by the High Court, it is evident that parity of pay scales vis-à-vis LDCs, UDCs, Assistants/PAs and Stenographers, was maintained even prior to 01.01.1986 under the Third Central Pay Commission recommendations (for the period of 01.01.1973 to 31.03.1985). This parity was continued in the Fourth Central Pay Commission recommendations (with effect from 01.01.1986 to 31.12.1995) and the Fifth Central Pay Commission recommendations (for the period 01.01.1996 to 14.09.2006). The post of Assistants, PAs and Stenographers is governed by Director General Ordnance Factories Headquarters Civil Service Rules,

1977.

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."

23. A perusal of the aforementioned judgment clearly shows that if there is no dispute with regard to the qualifications, duties and responsibilities of the persons holding identical posts, it is open to the Court to intervene. In the present case, there is no dispute with regard to the qualifications, duties and responsibilities being discharged by the petitioner as discharged by the employees in other Departments inasmuch as the R&P Rules in the Agriculture Department, Department of Rural Development, Himachal Pradesh and Education Department are also the same, which prescribe the same essential qualifications therefore, there is no justification on the part of the respondents to deny the

petitioner the pay scale of Rs.1350-2400/- from her initial date of appointment, especially when the Junior Tailoring Masters/Mistresses in the Rural Development Department are being paid the said pay scale from 01.01.1986.

24. Learned counsel representing the respondents has also placed reliance upon the judgment passed in ***P.U. Joshi and others versus Accountant General, Ahmedabad and others***, (2003) 2 SCC 632, to submit that the determination of service conditions are exclusively within the realm of the executive and granting of pay scale is the prerogative of the Government. No doubt, it has been held that the Court cannot equate the pay scales, but if it is proved that the qualifications, duties and responsibilities of the persons holding identical posts or ranks are treated differently merely because they belong to different Departments or the basis for classification or post is ex-facia irritational, arbitrary or unjust, it is open to the Court to intervene as held in ***Union of India vs. Dineshan K.K.***, (2008) 1 SCC 586, which view has been followed in ***D.G.F.O Employees Association's*** case (supra).

Thus, the Court has the power to intervene if it is proved on record that the person is possessing the same qualification, discharging similar duties and sharing the same responsibilities to remove anomaly in the pay scale.

25. As already discussed above, the petitioner was issued the call letter for the post of Junior Tailoring Mistress, to be appointed in the Department of Rural Development, Himachal Pradesh, but she was offered the appointment in the Agriculture Department of the State Government, vide office order dated 16.10.1991, and the petitioner after noticing the anomaly, had made the representation to grant her the same pay scale as granted to the Junior Tailoring Mistresses in the Rural Development Department and rejection of the claim of the petitioner on the ground that since the pay scale granted to the petitioner had been revised to Rs.3120-5160, she is not entitled to the pay scale of Rs.4400-7000 and also the pre-revised pay scale of Rs.1365-2410, is illegal, arbitrary and unconstitutional and as such the impugned orders passed by the respondents rejecting the

claim of the petitioner are quashed.

26. The petitioner was appointed to the post of Art and Craft Teacher as per office order dated 16.10.1991 and her claim to remove the anomaly in the pay scale came to be rejected lastly on 06.05.2009 (Annexure P-18) and thereafter she filed the instant petition in the year 2010. Therefore, the petitioner, though is held entitled to the pay scale of Rs.1350-2400 with effect from the date of her appointment as Art and Craft Teacher with corresponding revision of pay scale w.e.f. 01.01.1996 and 01.01.2006 with all consequential benefits, however, she is held entitled to arrears only from three years prior to the date of institution of the petition in view of the law laid down by the Hon'ble Supreme Court in ***Union of India and others vs. Tarsem Singh***, (2008) 8 SCC 648, wherein it has been held that if the wrong fixation is affecting an employee without any effect on the seniority and promotion, the Court can adjudicate the claim and the petition cannot be dismissed on the ground of delay and laches, but the Court can restrict the arrears normally to a period three years prior to the date

of institution of the petition. The relevant paragraph 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."

27. Keeping in view the aforementioned facts and circumstances, the impugned orders passed by the respondents rejecting the claim of the petitioner are

unsustainable in law inasmuch as the petitioner has been discriminated when she has not been granted the pay scale of Rs.1350-2400 from the date of her initial appointment and thereafter the revision of pay scales corresponding to the said pay scale.

28. Consequently, the present petition is allowed and the impugned orders dated 10.04.2008 (Annexure P-13) and 06.05.2009 (Annexure P-18) are quashed and set aside and the respondents are directed to allow the petitioner the pay scale of Rs.1350-2400 with effect from the date of her appointment as Art and Craft Teacher with corresponding revision of pay scale w.e.f. 01.01.1996 and 01.01.2006 with all consequential benefits and the arrears shall be paid to her only from three years prior to the date of institution of the present petition. In case the petitioner is not paid the arrears within a period of six months from today, the respondents shall pay interest @6% per annum from today till actual payment.

29. The petition is accordingly disposed of. No order as to costs. Pending application(s), if any, shall also stand disposed of.

25th September, 2026

(ankit)

**(Jiya Lal Bhardwaj)
Judge**