

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA
CWPOA No.5942 of 2019
Decided on: 30th September, 2026

Ajay Pal Chauhan and others

...Petitioners

Versus

State of H.P. and others

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioners: Mr. Karan Singh Parmar, Advocate.

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

Jiya Lal Bhardwaj, Judge *(Oral)*

By way of present petition, the petitioners have
prayed for the following substantive relief:-

"i) That the impugned order Annexure A-7, dated 23.5.2015 may be quashed and set aside and the Respondents may be directed to grant enhanced Grade Pay of Rs.2400/Rs.2800 to the Applicants w.e.f. December, 2011, alongwith all consequential benefits. The arrears in pursuance to the enhanced Grade Pay to the Applicants may be paid alongwith interest @24% p.a., in the interest of justice."

2. Shorn of unnecessary details, the brief facts of the
case are that the petitioners, who are working with

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

respondent No.3 on various posts such as Head Mechanic (Electrical), Developer, Dark Room Attendant, Feeder, Fly Boy, Junior Machineman, Press Duftri, Inker, Press Head Mechanic, Mono Caster, Mono Operator, Tradeleman and Binder have claimed grade pay of Rs.2400 and Rs.2800/- w.e.f. December 2011 along with all consequential benefits. It has been averred in the petition that the petitioners have come to know that the State of Punjab, vide Notification dated 23.12.2011 had revised grade pay of the employees working in the Printing and Stationery Department and the employees who were in the pre-revised pay scale of Rs.3120-5160/- were given grade pay of Rs.2400/-. The petitioners, who were getting grade pay of Rs.1900/-, took up the matter with the competent authority for giving them grade pay on the same analogy, which was given to the corresponding category in the State of Punjab. However, despite making recommendation to grant them grade pay of Rs.2400/- and Rs.2800/-, their claim came to be rejected as conveyed to the

petitioners after receipt of information by respondent No.3.

3. The petitioners feeling aggrieved by the rejection of their claim on the analogy of grade pay granted to their counterparts in the State of Punjab, as per communication dated 23.05.2015 (Annexure A-7), have approached this Court *inter alia* on the grounds that once the State Government had followed the same rules applicable to their category in the State of Punjab, they have been discriminated in the matter of grant of grade pay, which has resulted in hostile discrimination. It has further been averred that the Head of Department of the petitioners had strongly recommended the grant of enhanced grade pay of Rs.2400/ and Rs.2800/- to the categories of the petitioners and had tried to justify the grant of grade pay. However, when the matter was taken up with the Finance Department, their claim had been rejected without giving any reasons. The rejection of the case of the petitioners is without any reason inasmuch as the same is a non-speaking order. It has also been averred that in case the

authority had decided to reject the claim of the petitioners, it was under a legal obligation to assign reasons for arriving at such decision. However, the impugned order does not disclose any reason and as such the same is bad in the eyes of law. Further, it has been averred that the petitioners have reasons to believe that their case has been rejected by the Finance Department only on financial constraints and it is now well settled that the financial constraints cannot be a ground to deny the benefit legally accrued in favour of an employee. The petitioners are entitled to grant of enhanced grade pay on the analogy of the Punjab Pay Rules and thus, prayed for quashing the rejection of their claim as per communication dated 23.05.2015 with a further direction to the respondents to grant the enhanced grade pay of Rs.2,400/- and Rs.2,800/- to the petitioners w.e.f. December 2011 along with all consequential benefits.

4. The respondents filed reply to the petition and in preliminary submissions submitted that the State of Himachal

Pradesh takes into account Punjab pattern of pay scale with suitable modifications wherever required as the State Government has its own staffing pattern, service or R&P Rules, method of recruitment, prescribed educational qualifications, geographical and traditional conditions, natural and financial resources. The pay scales notified by the Punjab Government are considered as basis for revision of pay scale of the State Government employees. While doing so the staffing pattern, administrative requirements and financial resources of the State are the core issues always taken care of. The State Government of Himachal Pradesh implements the pay scales in respect of its employees after detailed examination at various levels and with the approval of the competent authority by framing statutory Rules under Article 309 of the Constitution of India. It has also been averred that the State Government of Himachal Pradesh has exclusive jurisdiction to legislate or issue the executive instructions on State Public Services as per Entry 41 of State

List of Schedule-7 of the Constitution of India. The State Government can decide the pay scales etc., which is also one of the service conditions prescribed in the R&P Rules notified under Article 309 of the Constitution of India. It has further been averred that as per the judgment of the Hon'ble Supreme Court, one State is not bound to follow the Rules and Regulations applicable to the employees of other State or if it had adopted the same Rules and Regulations in the past, it is not bound to follow every change brought in the Rules and Regulations in another State.

5. On merits, it has been averred that though the petitioners have not given their designations in the petition, however, they have been designated as Head Mechanic (Electrical), Developer, Dark Room Attendant, Feeder, Fly Boy, Junior Machineman, Press Duftri, Inker, Press Head Mechanic, Mono Caster, Mono Operator, Tradeleman and Binder. It has further been averred that all the petitioners were not in the pay scale of Rs.3,120-5,160/- and in fact they

were working in different pre-revised pay scales as granted by the Government of Himachal Pradesh. It is correct that the State of H.P. had revised pay scales of employees vide Notification dated 26.08.2009, which had come into force w.e.f. 01.01.2006. The petitioners were given the revised pay scale of Rs.3,120-5,160/- and also revised pay scale of Rs.5,910-20,200/- and grade pay. It has further been averred that the State of Punjab had revised the pay scale of certain categories of employees, vide Notification dated 23.12.2011. However, there is no specific mention of the fact that these categories pertain to Printing and Stationery Department. The State of Himachal Pradesh considers the Punjab pattern of pay scale which are normally based on the job recommendations of the respective Pay Commission constituted by the Punjab Government. However, the State Government of Himachal Pradesh implements these pay scales in respect of its employees, after detailed examination at various levels. The State of Himachal Pradesh is not bound

to follow the Punjab pattern and as such prayed for dismissal of the writ petition.

6. I have heard the learned counsel for the parties and also perused the records carefully.

7. The moot question which arises for consideration in the present petition is whether the State of Himachal Pradesh is bound to grant the pay scale and grade pay as granted to the similar employees in the State of Punjab or not. The Hon'ble Supreme Court in ***State of Himachal Pradesh versus P.D. Attri and others***, (1999) 3 SCC 217, has held that even if the State as per policy and practice had been adopting the same pay scale for the employees of the High Court as sanctioned from time to time for the employees of the Punjab and Haryana High Court in the past, it may even not follow to grant same pay scales. The relevant paragraphs of the judgment are reproduced as hereunder:

"5. The case of the respondents is not based on any Constitutional or any other legal provisions when they claim parity with the posts similarly designated in the Punjab and Haryana High Court and their pay-scales

from the same date. They do not allege any violation of any Constitutional provision or any other provision of law. They say it is so because of "accepted policy and common practice" which, according to them, are undisputed. We do not think we can import such vague principles while interpreting the provisions of law. India is a union of States. Each State has its own individualistic way of governance under the Constitution. One State is not bound to follow the rules and regulations applicable to the employees of the other State or if it had adopted the same rules and regulations, it is not bound to follow every change brought in the rules and regulations in the other State. The question then arises before us is whether the State of Himachal Pradesh has to follow every change brought in the States of Punjab & Haryana in regard to the rules and regulations applicable to the employees in the States of Punjab and Haryana. The answer has to be in negative. No argument is needed for that as anyone having basic knowledge of the Constitution would not argue otherwise. True, the State as per "policy and practice" has been adopting the same pay scales for the employees of the High Court as sanctioned from time to time for the employees of the Punjab and Haryana High Court and it may even now follow to grant pay scales but is certainly not bound to follow. No law commands it to do so.

6. *The State of Punjab was reorganised into States of Punjab, Haryana and Himachal Pradesh. Himachal Pradesh, to begin with, was a Union Territory and was given the status of full statehood in 1970. Since employees of the composite States of Punjab were taken in various Departments of the State of Himachal Pradesh in order to safeguard the seniority, pay-scales etc., the State of Himachal Pradesh followed the Punjab pattern of pay-scales. After attaining the status of full statehood, High court of Himachal Pradesh formulated its own rules and regulations for its employees. It adopted the pattern of*

Punjab & Haryana High Court rules of their employees. When Punjab & Haryana High court gave effect to certain portion of its Rules from 25-9-1985 by notification dated 23-1-1986 as a result of which redesignation of the posts of Senior Translators and Junior Translators were equated to the posts in the Punjab Civil Secretariat, in the Himachal Pradesh High court similar effect was given to in its rules for its employees. When the Punjab & Haryana High court gave effect to those rules from 23-1-1975, the State Government did not agree to the recommendations of the chief justice of the Himachal Pradesh High Court to follow the same suit. It is true that till now, the Himachal Pradesh High Court has been following the rules applicable to the employees of the Punjab & Haryana High Court and it may go on following those rules as may be amended by the Punjab & Haryana High Court from time to time, but certainly it is not bound to so follow. No law commands the State government to follow the rules applicable to the employees of the Punjab & Haryana High Court to the employees of the Himachal Pradesh High Court. That being the position, it is not necessary for us to examine different qualifications for appointment to the posts of Senior Translators and Junior Translators that may exist between the Punjab & Haryana High Court and the Himachal Pradesh High Court and also as to the mode of their recruitment/placement in the service. Moreover, any change in the pay-scale following Punjab & Haryana High Court can set in motion chain reaction for other employees which may give rise to multiplicity of litigation among various categories of employees. Rules of each High court have to be examined independently. There cannot be any such law that Himachal Pradesh High Court has to suo motu follow the same rules as applicable to the employees working in the Punjab and Haryana High Court."

8. The Supreme Court in catena of judgments has

held that the questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation and abolition, prescription of qualifications and other conditions of service, including avenues of promotion and criteria to be fulfilled for such promotion pertain to the field of policy and falls within the exclusive discretion and jurisdiction of the State. A reference in this regard is made to the judgment passed in ***P.U. Joshi and others versus Accountant General, Ahmedabad and others***, (2003) 2 SCC 632.

9. The Supreme Court has again held that so far as the grant of pay scales and service conditions are concerned, are not within the realm of the Court and it is for the expert bodies to examine such issue and not by the Tribunal/Court. A reference in this regard is made to the judgment of the Supreme Court in ***Union of India versus Indian Navy Civilian Design Officers Association and another***, (2023) 19 SCC 482.

The relevant paragraph of the judgment reads as under:

“10. Before advertng to the rival contentions raised by the learned counsels for the parties, it deserves to be

noted that the power of judicial review of the High Courts in the matter of classification of posts and determination of pay scale is no more res integra. It has been consistently held by this Court in plethora of decisions that equation of posts and equation of salaries is a complex matter which is best left to an expert body unless there is cogent material on record to come to a firm conclusion that a grave error had crept in while fixing the pay scale for a given post and the interference of the Court was absolutely necessary to undo the injustice.

11. In State of U.P. and Others Vs. J.P. Chaurasia and Others, while answering the questions as to whether the Bench Secretaries in the High Court of Allahabad were entitled to pay scale admissible to the Section Officers and whether the creation of two grades with different scales in the cadre of Bench Secretaries who were doing the same and similar work was violative of the right to have "equal pay for equal work". This Court observed as under:

"18. The first question regarding entitlement to the pay scale admissible to Section Officers should not detain us longer. The answer to the question depends upon several factors. It does not just depend upon either the nature of work or volume of work done by Bench Secretaries. Primarily it requires among others, evaluation of duties and responsibilities of the respective posts. More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the executive Government. It must be determined by expert bodies like duties and responsibilities of posts. If there is any such determination by a Pay Commission. They would be the best judge to evaluate the nature of should not try to tinker with such equivalence unless it is

shown that it was Commission or Committee, the court should normally accept it. The court made with extraneous consideration."

12. The aforesaid ratio was followed by this Court in Union of India v. Makhan Chandra Roy. Again, in State of W.B. v. W.B. Registration Service Assn., the claim of Sub-Registrars of West Bengal Registration Service claiming parity in pay scale with Munsifs on the basis that Sub-Registrars were conferred gazetted status, was examined by this Court. It was elaborately observed in SCC para 12 as under:

"12. We do not consider it necessary to traverse the case law on which reliance has been placed by counsel for the appellants as it is well settled that equation of posts and determination of pay scales is the primary function of the executive and not the judiciary and, therefore, ordinarily courts will not enter upon the task of job evaluation which is generally left to expert bodies like the Pay Commissions, etc. But that is not to say that the Court has no jurisdiction and the aggrieved employees have no remedy if they are unjustly treated by arbitrary State action or inaction. Courts must, however, realise that job evaluation is both a difficult and time-consuming task which even expert bodies having the assistance of staff with requisite expertise have found difficult to undertake sometimes on account of want of relevant data and scales for evaluating performances of different groups of employees. This would call for a constant study of the external comparisons and internal relativities on account of the changing nature of job requirements. The factors which may have to be kept in view for job evaluation may include: (i) the work programme of his Department (ii) the nature of contribution expected of him (iii) the extent of his responsibility and accountability in the discharge

of his diverse duties and functions (iv) the extent and nature of freedoms/limitations available or imposed on him in the discharge of his duties (v) the extent of powers vested in him (vi) the extent of his dependence on superiors for the exercise of his powers (vii) the need to coordinate with other Departments, etc. We have also referred to the history of the service and the effort of various bodies to reduce the total g number of pay scales to a reasonable number. Such reduction in the number of pay scales has to be achieved by resorting to broad banding of posts by placing different posts having comparable job charts in a common scale. Substantial reduction in the number of pay scales must inevitably lead to clubbing of posts and grades which were earlier different and unequal. While doing so care must be taken to ensure that such rationalisation of the pay structure does not throw up anomalies. Ordinarily a pay structure is evolved keeping in mind several factors, e.g., (i) method of recruitment, (i) level at which recruitment is made, (iii) the hierarchy of service in a given cadre, (iv) minimum educational/technical qualifications required, (v) avenues of promotion, (vi) the nature of duties and responsibilities, (vii) the horizontal and vertical relativities with similar jobs, (viii) public dealings, (ix) satisfaction level, (x) employer's capacity to pay, etc. We have referred to these matters in some detail only to emphasise that several factors have to be kept in view while evolving a pay structure and the horizontal and vertical relativities have to be carefully balanced keeping in mind the hierarchical arrangements, avenues for promotion, etc. Such a carefully evolved pay structure ought not to be ordinarily disturbed as it may upset the balance and cause avoidable ripples in other cadres as well. It is presumably for

this reason that the Judicial Secretary who had strongly recommended a substantial hike in the salary of the Sub-Registrars to the Second (State) Pay Commission found it difficult to concede the demand made by the Registration Service before him in his capacity as the Chairman of the Third (State) Pay Commission. There can, therefore, be no doubt that equation of posts and equation of salaries is a complex matter which is best left to an expert body unless there is cogent material on record to come to a firm conclusion that a grave error had crept in while fixing the pay scale for a given post and Court's interference is absolutely necessary to undo the injustice."

13. In State of Haryana v. Charanjit Singh, a three- Judge Bench in a e referred matter considered whether the doctrine of "equal pay for equal work", was an abstract doctrine, and observed thus:

"19. Having considered the authorities and the submissions we are of the view that the authorities in Jasmer Singh, Tilak Raj, Orissa University of Agriculture & Technology and Tarun K. Roy lay down the correct law. Undoubtedly, the doctrine of "equal pay for equal work" is not an abstract doctrine and is capable of being enforced in a court of law. But equal pay must be for equal work of equal value. The principle of "equal pay for equal work" has no mechanical application in every case. Article 14 permits reasonable classification based on qualities or characteristics of persons recruited and grouped together, as against those who were left out. Of course, the qualities or characteristics must have a reasonable relation to the object sought to be achieved. In service matters, merit or experience can be a proper basis for classification for the purposes of pay in order to promote efficiency in administration. A higher pay scale to

avoid stagnation or resultant frustration for lack of promotional avenues is also an acceptable reason for pay differentiation. The very fact that the person has not gone through the process of recruitment may itself. in certain then also the doctrine may have no application. Even though persons may cases, make a difference. If the educational qualifications are different, do the same work, their quality of work may differ. Where persons are selected by a Selection Committee on the basis of merit with due regard b to seniority a higher pay scale granted to such persons who are evaluated by the competent authority cannot be challenged. A classification based on difference in educational qualifications justifies a difference in pay scales. A mere nomenclature designating a person as say a carpenter or a craftsman is not enough to come to the conclusion that he is doing the same work as another carpenter or craftsman in regular service. The quality of work which is produced may be different and even the nature of work assigned may be different. It is not just a comparison of physical activity. The application of the principle of "equal pay for equal work" requires consideration of various dimensions of a given job. The accuracy required and the dexterity that the job may entail may differ from job to job. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere. Normally a party claiming equal pay for equal work should be required to raise a dispute in this regard. In any event, the party who claims equal pay for

equal work has to make necessary averments and prove that all things are equal. Thus, before any direction can be issued by a court, the court must first see that there are necessary averments and there is a proof. If the High Court is, on basis of material placed before it, convinced that there was equal work of equal quality and all other relevant factors are fulfilled it may direct payment of equal pay from the date of the filing of the respective writ petition. In all these cases, we find that the High Court has blindly proceeded on the basis that the doctrine of equal pay for equal work applies without examining any relevant factors."

14. *In Union of India v. T.V.L.N. Mallikarjuna Rao*, this Court reiterated the said position:

"26. The classification of posts and determination of pay structure comes within the exclusive domain of the executive and the Tribunal cannot sit in appeal over the wisdom of the executive in prescribing certain pay structure and grade in a particular service. There may be more grades than one in a particular service."

15. *In view of the aforestated legal position, it clearly emerges that though the doctrine "equal pay for equal work" is not an abstract doctrine and is capable of being enforced in a court of law, the equal pay must be for equal work of equal value. The equation of posts and determination of pay scales is the primary function of the executive and not of the judiciary. The courts therefore should not enter upon the task of job evaluation which is generally left to the expert bodies like the Pay Commissions which undertake rigorous exercise for job evaluation after taking into consideration several factors like the nature of work, the duties, accountability and responsibilities attached to the posts, the extent of powers conferred on the persons holding a particular post, the promotional avenues, the statutory rules governing the*

conditions of service, the horizontal and vertical relativities with similar jobs, etc."

10. In the present case, the petitioners have based their claim to grant them grade pay of Rs.2,400/- and Rs.2,800/- w.e.f. December 2011 on the analogy of the Notification issued by the State Government of Punjab and once the Supreme Court has held that even if in the past, the State was following the pattern of the pay scale granted by some other State, it is not under obligation to adopt the same pay scale for the employees as sanctioned from time to time. Since the Government of Himachal Pradesh has not adopted the pay scale as granted by the Punjab Government to its employees as claimed by the petitioners, no illegality has been committed by the State Government while rejecting the claim of the petitioners.

11. Learned counsel for the petitioners has vehemently argued that once the proposal was sent by respondent No.3 to grant the pay scale to the petitioners, the competent authority ought to have assigned some reasons

while rejecting the claim.

12. It is now settled by the Hon'ble Supreme Court that even if the recommendations were made by the authority, the competent authority who had to sanction/award the pay scale, it cannot bind the said authority. Further noting recorded in the file is merely an expression of opinion by a particular officer, and by no stretch of imagination such noting could be treated as a decision of the Government. Reference in this regard is made to the judgment of the Hon'ble Supreme Court in ***Union of India vs. Indian Navy Civilian Design Officers Association and another***, (2023) 19 SCC 482. The relevant paragraph of the judgment reads as under:

"19. Much emphasis was placed by the learned Senior Advocate Mr. Khurshid on the noting made by the Officer of the Naval Department in the file recommending pay scale of JDOs equivalent to that of CTOs, however, it may be noted that a noting recorded in the file is merely an expression of opinion by a particular officer, and by no stretch of imagination such noting could be treated as a decision of the Government."

13. Learned counsel for the petitioners further vehemently argued that once there are no reasons assigned while rejecting the claim of the petitioners, the order on this sole ground deserves to be quashed and set aside. However, the said contention cannot be accepted for the reason that the petitioners had to carve out the case to grant them grade pay of Rs.2,400/- and Rs.2,800/- on the basis of some right accrued to them. In the present case, as already observed above, the petitioners are claiming grade pay of Rs.2,400/- and Rs.2,800/- on the basis of the Notification issued by the Punjab Government, which was never adopted by the State Government and, therefore, even if no reason has been assigned by respondent No.3, since no fundamental right of the petitioners has been infringed, the order passed by the competent authority cannot be set at naught and there is no error committed by the respondents while rejecting the claim of the petitioners.

14. Consequently, I do not find any merit in the

present petition and the same is accordingly dismissed. No order as to costs. Pending miscellaneous application(s), if any, also stand disposed of.

30th September, 2026
(*ankit*)

(Jiya Lal Bhardwaj)
Judge