

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.6281 of 2019
Decided on: 25.08.2026

Meera Sharma and others

...Petitioners

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 petitioners: Mr. Hirdaya Ram and Mr. Suresh Singh Saini, Advocates.

For the respondents: Mr. Amandeep Sharma, Additional Advocate General.

Jiya Lal Bhardwaj, Judge (Oral)

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

- "i) Respondents may kindly be directed to grant notional benefit of pay scales under 4-tier pay scales to the applicants under annexures A-1, A-2, read with annexure A-5 w.e.f. 1.1.2006 after their completing 14 years of service in April 2004 along with all consequential benefits.
- ii) Respondents may kindly be directed that annexure A-5 dated 26.8.2013 cannot be read to mean denial of notional benefits of 4-tier pay scales to the applicants w.e.f. 1.1.2006 and that annexure A-5 has to confirm to annexure A-4

dated 9.8.2012 in respect of grant of notional benefits.

- iii) For directions to the respondents not to discriminate the applicants vis-à-vis HPAS officers in respect of grant of notional benefit of 4-tier of pay scales as made applicable to HPAS officers vide annexure A-4 and A-6 dated 30.8.2012.*
- iv) For holding that reasons for rejection of the representations of the applicants vide annexure A-9 are not justified and the applicants are entitled for grant of 4-tier pay scale notionally w.e.f. 1.1.2006."*

2. Shorn of unnecessary details, the key facts of the case are that the petitioners were inducted into Himachal Pradesh Forest Services (in short 'HPFS') in the year 1990. Petitioners No.1 & 2 joined on 09.04.1990 and petitioner No.3 on 15.05.1990. It has been averred that since the petitioners were of the 1990 batch of HPFS, they were entitled to time scale after completion of 8 and 16 years of service. All the petitioners had completed 8 years of service in the year 1998 and they were released the pay scale. As per Notification dated 01.09.1998 (Annexure A-1), the Himachal Pradesh Civil Services (Revised Pay) Rules, 1998, were amended. Thereafter, as per instructions dated 23.06.2000 (Annexure A-2), grant of 4-tier pay scale was introduced to some of the categories, however, the said pay

scale was not granted to the category of HPFS.

3. It has further been averred that as per instructions dated 31.08.2009 (Annexure A-3), it was decided that the cases of the officers/officials of the State Government, who were eligible for placement in the next higher pay scale in the three/two tier pay scales under the pre-revised pay scales, may not be considered after 26.08.2009 till further orders. Thereafter as per instructions dated 09.08.2012 (Annexure A-4), 4-tier pay structure was restored in respect of eight specific services/categories w.e.f. 27.08.2009 (i.e. the date before which earlier scheme was in operation) on notional basis and actual basis from the date of issue of the instructions and the category of the petitioners i.e. HPFS was not included. The respondents-State issued instructions dated 26.08.2013 (Annexure A-5), whereby granted the 4-tier pay scale to the category of the petitioners also but w.e.f. 01.09.2013. As per this instructions, the entry level pay band of HPFS was ₹15600-39100+ grade pay of ₹5400/-; after completion of 4 years of regular service in the entry scale the grade pay was of ₹6600/-; thereafter, after completion of 9 years of regular service in the entry scale, grade pay of ₹7600/-; and after

completion of 14 years of regular service, Grade Pay of ₹8600/-.

4. The grievance of the petitioners is that, though as per instructions dated 26.08.2013 (Annexure A-5), they were granted the 4-tier pay scale, but they have not been granted the same after completion of 14 years of service, which period they had long completed in 2004, but since the pay scale was revised w.e.f. 01.01.2006, they are at least entitled to get the said benefit w.e.f. 01.01.2026. It has also been averred that the respondents had granted the benefit in terms of the instructions dated 09.08.2012 (Annexure A-4) to the Himachal Pradesh Administrative Services (in short 'HPAS'), w.e.f. 27.08.2009 on notional basis and on actual basis w.e.f. 09.08.2012 but the said benefit was denied to them. The petitioners had preferred the representation dated 10.09.2014 (Annexure A-8) after passing the order dated 02.09.2014, whereby the benefit was given to petitioners as per Notification dated 14.08.2014 (Annexure A-7), however, the said prayer was rejected, vide communication dated 26.11.2014 (Annexure A-9).

5. The petitioners feeling aggrieved by the rejection

of their claim and not granting them the benefit in respect of grant of 4-tier pay scale after completion of 4, 9 and 14 years of service preferred the instant petition, *inter alia* on the ground that they cannot be discriminated vis-a-vis HPAS officials, who were also entitled to the grant of 4-tier pay scale under the same Notification, which were made applicable to HPAS officers. It has further been averred that initially HPAS officers were also denied 4-tier pay scale, but later on as per instructions dated 09.08.2012, they have been granted the said benefit and thus, the category of the petitioners cannot be discriminated at least for the purpose of granting them the benefit on notional basis w.e.f. 27.08.2009 and actual basis w.e.f. 09.08.2012. It has also been averred that as per instructions dated 26.08.2013, the actual benefits have been granted to the category of the petitioners, but the notional benefits cannot be denied to them from the date when the same have been granted to HPAS officers and as such, have prayed for direction to the respondents to grant them the notional benefits of pay scales under 4-tier pay scale w.e.f. 01.01.2006 on notional basis.

6. The respondents filed reply to the petition and

raised preliminary submissions that the State of Himachal Pradesh, by and large, takes into consideration Punjab pattern pay scales based on the recommendations of the Punjab Pay Commission, while examining pay scale in the State. However, the State Government has its own staffing pattern, service and Recruitment and Promotion Rules, method of recruitment, prescribed educational qualifications, geographical and traditional/territorial conditions, natural and financial resources and as such, the Government is not legally bound to follow Punjab pattern of pay scales. The pay scales notified by the Punjab Government are taken only as the basis for the revision of pay scales of State Government employees and while doing so, the staffing pattern, administrative requirements and financial resources of the State and the fact that no anomaly in pay scales occurs, are always taken care of. The State Government of Himachal Pradesh implements the pay scales in respect of its employees with the approval of the competent authority after detailed examination at various levels by framing its own statutory Rules under Article 309 of the Constitution of India. The State 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. It has also been averred that as per the judgment passed by the Hon'ble Supreme Court in ***P.U. Joshi and others vs. Accountant General, Ahmedabad and others*** and ***Union of India and others vs. Basudeba Dora and others*** (2003) 2 SCC 632, it has been clearly observed that granting of pay scale is the prerogative of the Government and Courts should not interfere in the executive functions of the Government and also that parity of pay scales and determination of service conditions are exclusively within the domain of executive Government. Certain other judgments have also been mentioned in the reply. It has been observed that there is no wholesome parity between HPFS and HPAS as claimed by the petitioners. The nomenclature, departments, duties and responsibilities as well as working conditions/geographical areas are totally different. Besides, feeder/promotional categories are also different. Having same essential qualifications cannot make the petitioners entitled to grant of the same pay scale. There are thousands of posts in various Government Departments, which carry similar essential qualifications,

but have different pay scales. In view of the above submissions, dismissal of the writ petition has been prayed.

7. The petitioner filed rejoinder to the reply filed by the respondents and controverted the averments made therein. Not only this, even the office orders in respect of the employees, who are serving as Assistant Engineers and Executive Engineers, to whom the 4-tier pay scale has been granted and also the posting orders of the HPFS and IFS, who have been posted against the posts manned by HPAS and IAS have also been placed on record.

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

9. It is not in dispute that the petitioners were inducted into HPFS in the year 1990. As per instructions dated 09.08.2012, the respondents-State had restored 4-tier pay structure in respect of eight specific services/categories of employees in the State of Himachal Pradesh w.e.f. 27.08.2009, (i.e. the date before which earlier scheme was in operation) on a notional basis and actual basis from the date of issue of these instructions. Thereafter, vide instructions dated 26.08.2013, the grant of 4-tier pay scale was also introduced to HPFS w.e.f. 01.09.2013. Admittedly,

the petitioners were inducted in HPFS in the year 1990. Once the petitioners were granted the 4-tier pay structure, which was made applicable to them with effect from 01.09.2013, they cannot be denied the benefit on notional basis w.e.f. 27.08.2009, especially when the benefit has been extended to them on the basis of the instructions already issued by the respondents-State, whereby the said benefit was extended to only eight specific services/categories of employees on actual basis w.e.f. 09.08.2012 and notional basis w.e.f. 27.08.2009.

10. The argument advanced by the learned counsel for the petitioners that once the petitioners were eligible after completion of 14 years' service in the year 2004 and the new pay scale was introduced w.e.f. 01.01.2006, they are entitled to get 4-tier pay scale w.e.f. 01.01.2006, cannot be accepted for the reason that the State Government had taken a conscious decision only on 09.08.2012 when it had introduced the 4-tier pay scale, though only in respect of eight specific services/categories in State of Himachal Pradesh, but w.e.f. 27.08.2009 on notional basis, the date before which the earlier scheme was in operation. Thus the petitioners, are entitled to the 4-tier pay scale w.e.f.

27.08.2009 on notional basis till 01.09.2013 since they are similarly situate as HPAS.

11. The learned Additional Advocate General has vehemently argued that once the category of HPFS was not initially included as per the instructions dated 09.08.2012, they cannot be granted the benefit notionally w.e.f. 27.08.2009. However, this contention cannot be accepted for the reason that there is no justification to deny the said benefit to the category of the petitioners, especially when subsequently, on the basis of the introduction of 4-tier pay structure (pay scale) to other categories, the said benefit was also extended to the category of HPFS. No doubt, the petitioners cannot claim the benefit on actual basis when the eight specific services/categories have been granted the benefit as per instructions dated 09.08.2012, but at the same time, once the petitioners have been extended the benefit by the respondents-State itself, they cannot be denied the benefit on notional basis from the date when the earlier scheme was in operation till 27.08.2009.

12. Learned Additional Advocate General has further vehemently argued that, as per the judgments passed by the Hon'ble Supreme Court, it is not the function of this

Court to grant the pay scale and it is exclusively the function of the executive and the legislature. No doubt, the Court could not have given directions to include the category of petitioners for grant the 4-tier pay scale to them, but once the respondents-State themselves had issued the instructions extending the benefit to the category of petitioners who were granted the pay scale w.e.f. 01.09.2013, there is no justification to deny them the benefit notionally at least w.e.f. 27.08.2009, when the said benefits have been granted to other eight specific services/categories.

13. The Hon'ble Supreme Court in ***Union of India vs. Dineshan K.K.***, (2008) 1 SCC 586 has held that no doubt the equation of the posts and equation of pay structure is complex matters, which are generally left to the executive and expert bodies like the pay commissions etc. Nevertheless, it will not be correct to lay down as an absolute rule that merely because the 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. Relevant paras of the judgment are reproduced hereunder:

“12. The principle of "equal pay for equal work" has been considered, explained and applied in a catena of decisions of this Court. The doctrine of "equal pay for equal work" was originally propounded as part of the directive principles of the State policy in Article 39(d) of the Constitution. In Randhir Singh v. Union of India a Bench of three learned Judges of this Court had observed that principle of equal pay for equal work is not a mere demagogic slogan but a constitutional goal, capable of being attained through constitutional remedies and held that this principle had to be read under Articles 14 and 16 of the Constitution. This decision was affirmed by a Constitution Bench of this Court in D.S. Nakara v. Union of India. Thus, having regard to the constitutional mandate of equality and inhibition against discrimination in Articles 14 and 16, in service jurisprudence, the doctrine of "equal pay for equal work" has assumed status of a fundamental right.

13. Initially, particularly in the early eighties, the said principle was being applied as an absolute rule but realising 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: Secy., Finance Deptt. v. W.B. Registration Service Assn. and State of Haryana v. Haryana Civil Secretariat Personal Staff Assn.) 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. From the aforementioned ruling, it is crystal clear that the Court may examine the matter, if the employees are treated differently merely because they belong to different Departments or the basis for classification of posts is ex facie irritational, arbitrary and unjust. In the present case, the respondents-State has granted the benefit of the 4-tier pay scale to the category of the petitioners at their own, but they have not been granted the benefit on notional basis from the date when eight specific services/categories have been granted i.e. w.e.f. 27.08.2009. The petitioners have placed on record the orders in respect of HPFS, who have been posted to discharge the duties being performed by HPAS. Thus, there

is no justification to deny the benefit of 4-tier pay scale to the petitioners, especially when the respondents-State has extended the said benefit to the Assistant Engineers too. Once 4-tier pay scale was introduced, there is no justification to deny the said benefit to the category of the petitioners from the date when other eight specific services/categories have been granted and thus, action on the part of the respondents-State is violative of Articles 14 of the Constitution of India.

15. The above judgment in **Dineshan K.K.** (supra) has also been followed in **Union of India vs. DGOF Employees Association**, (2023) 15 Scale 293 and the Court has returned the same view. Relevant paragraphs thereof are reproduced hereunder:

“9. The learned senior counsel for the respondents on the other hand has referred to the decision of this Court in Union of India vs. 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."

16. Learned Additional Advocate General has further argued that there is no wholesome parity in HPFS with the HPAS. However, the said contention cannot be accepted in view of the fact that the respondents-State had been issuing the Notifications, whereby, the employees who were serving in the cadre of HPFS have been posted at places where ordinarily the officers of HPAS are posted. One of the Notification dated 15.06.2015 (page 104), clearly demonstrates the said fact and, therefore, the plea taken by the respondents-State is not justified. Not only this, there are other Notifications, where the persons who were inducted into Indian Forest Services, their services have been utilized in the cadre of Indian Administrative Services

and, therefore, the plea taken by the respondents-State that the petitioners are not entitled to the benefit notionally w.e.f. 27.08.2009, cannot be accepted.

17. Learned Additional Advocate General has also vehemently opposed the prayer made by the petitioners on the ground that the Court cannot equate the posts. As already observed above, the respondents-State had extended the benefit of the 4-tier pay scale to the category of the petitioners, but not from the earlier date. This Court could have been slow to issue directions to the respondents-State to grant the benefit of the 4-tier pay scale to the category of the petitioners, had the respondents-State not extended the benefit at their own to them. Even otherwise, as per the judgment of the Hon'ble Supreme Court in ***Union of India and others vs. Satya Brata Chowdhury and others***, (2008) 16 SCC 383, the State Government cannot give differential treatment to its employees. In the case of petitioners though they have been granted the benefit of the 4-tier pay scale, but the said benefit has been given to them w.e.f. 01.09.2013, which is totally without any justification and, therefore, the petitioners are held entitled to the 4-tier pay structure/scale notionally w.e.f. 27.08.2009.

18. Consequently, the present petition is allowed and the communication dated 26.11.2014 (Annexure A-9) is quashed and the respondents are directed to grant the benefit of the 4-tier pay scale to the petitioner w.e.f. 27.08.2009 on notional basis and on actual basis as per instructions dated 26.08.2013 i.e. from 01.09.2013. The respondents are directed to release the arrears on account of grant of 4-tier pay scale to the petitioners within three months from today and in case the benefits are not released, the petitioners are entitled to interest @ 6% per annum from today, till actual payment to them. No order as to costs. Pending applications, if any, also stand disposed of.

25th August, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**