

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

CWP no.13458 of 1994(O&M)

Date of Decision :18.11.2015

Radhey Shyam and others

....Petitioner(s)

Versus

State of Haryana and another

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present : Mr. Rupinder Khosla, Sr. Advocate with
Mr.Sarvesh Malik, Advocate for the petitioners

Mr. Hitesh Pandit, Addl. AG, Haryana

MAHESH GROVER, J.

All petitioners were working as Chemists in the Department of Health Services under the Government of Haryana which has now been designated as office of Food and Drugs Administration, Haryana.

Their primary function concededly is to analyze food, water, drugs and excise samples. They have been placed in the pay band, the particulars of which are given below:-

Details of pay

1.1.1986	1400-2600+100 Spl. Pay
1.1.1996	5000-7850+100Spl. Pay
1.1.2006	9300-34800+3200GP +100Spl. Pay
1.9.2014	9300-34800+3600GP+100 Spl.Pay

The case of the petitioners is that they are seeking enhanced pay at

Panchkula whose pay band is as under:-

Details of pay

1.1.1986	2000-60-2300-75-2900-100-3500
1.1.1996	6500-200+8500-200-10500
1.1.2006	9300-34800+4200GP

It is the case of the petitioners that they are performing multiple functions and analyzing different sets of samples whereas those chemists under the Public Health and Engineering Department are merely analyzing samples of water but yet they are admitted to a higher pay scale than the petitioners who are performing multifarious functions including testing of water samples.

The respondents do not deny this and have placed on record an affidavit of S.Narayanan, IFS, Commissioner, Food and Drugs Administration, Haryana, Panchkula dated 30.10.2015 conceding this functional aspect of the petitioners and their counter parts but respondents plead that they are incomparable because of the reason that the petitioners are placed in group 'C' whereas their counter parts in the Public Health Engineering Department, Panchkula are placed in group 'B'. It is thus stated that this itself would dis-entitle the petitioners to claim any parity with the chemists of the Public Health Engineering Department, Panchkula.

It is a settled principle of law that functionality of a post and the qualifications which go alongwith it are the determining factors for an admissibility to a pay band. If the qualifications of the petitioners and those of

the chemists in Public Health and Engineering Department are to be seen the petitioners are more qualified than the chemists in the Public Health Engineering Department, Panchkula. For the purposes of reference qualifications of the petitioners and their counter parts in the Public Health Department are given below:-

Qualifications	Food & Drugs Administration Haryana, Panchkula	Engineer-in-Chief Haryana Public Health Engineering Department, Panchkula
	M.Sc. in Chemistry or Mircrobiology or Food Technology or Food & Drugs Technology or post Graduate Degree in pharmacy or Pharmaceutical Chemistry from a recognized university or possesses qualifications of the institute of Chemists (India) by examination in the section of analysis of Food/Drugs conducted by the institute of Chemists Hindi upto matric standard	B.Sc. 2 nd division with Chemistry as one of the subject or M.Sc. in chemistry Hindi upto Matric Standard

Reliance has been placed on case titled as **Doordarshan Cameramen's Welfare Association (Regd) vs. Union of India and another** reported as 1990(sup) SCC 262.

Similarly in case titled as **Krishan Lal Sehgal and others vs. State of Haryana and another** reported as 1992(1)SLR 614, Division Bench of this Court observed as under:-

“4.After hearing the learned counsel for the parties, we are of the considered view that this petition has merit and therefore, must succeed. It is not disputed that both the sets of employees either

working at the office of District Public Relations Officer in the State of Haryana or Rural Community Theatre are performing the same kind of duties. Both the sets of employees have the same employer. The fact that one set of employees is performing in the rural areas in the district at the district level whereas the other set of employees is performing in the districts or at State Level Functions; no distinction in the nature of duties could possibly be made out. While considering the principle of equal pay for equal work, it is not necessary to find out similarity by mathematical formula but there must be a reasonable similarity in the nature of work, performance of duties, the qualification and the quality of work performed by them and it is not permissible to have classification in services particularly for the purpose of pay scales. Even though the principle of equal pay for equal work has not assumed or has been expressly declared by the Constitution as fundamental right but in view of the Directive Principles of State Policy as contained in Article 39(d) of the Constitution 'equal pay for equal work' has assumed the status of fundamental right in service jurisprudence having regard to the constitutional mandate of equality in Articles 14 and 16 of the Constitution of India.”

Likewise, in case titled as **Girdhari Lal vs. State of Haryana**

reported as 1996(2) SCT 132, Division Bench of this Court observed as under:-

“5. The principle of equal pay for equal work as invoked by the petitioners has been held to be not abstract one and the State is entitled to prescribe different scales of pay having different rates having regard to the different nature of duties, responsibilities and educational qualifications but where the employees are equal in every respect including educational qualifications, duties, functions and measure of responsibilities, the doctrine of equal pay for equal work would be applicable and if the Court is satisfied that the classification prescribing different scales of pay is not based on reasonable nexus, appropriate directions may be issued.”

In view of the above, prayer of the petitioners is accepted and instant petition is disposed of with a direction to the respondents to look into the issue of parity of pay of the petitioners with their counter parts in the Public Health Engineering Department, Panchkula keeping in view the fact that the petitioners are more qualified educationally and also perform multifarious functions as against limited functions performed by their counter parts in the Public Health Engineering Department, Panchkula. Let needful be done as expeditiously as possible but not later than four months from the date of receipt of the certified copy of this order.

November 18, 2015

(Mahesh Grover)
Judge