

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 5472 of 1995(O&M)
Date of decision : 18.03.2015

Madan Gopal

..... Petitioner

versus

The State of Haryana & others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.Hari Om Sharma, Advocate for the petitioner.

Ms.Shruti Goyal, AAG, Haryana.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

By this petition the petitioner has claimed the higher pay scale of Rs.1600-2660. The basis of the claim is that the petitioner was promoted as Head Clerk in the Municipal Committee, Shahabad and Head Clerks working in different Government departments were given the higher pay scale. In the written statement filed by the State a specific averment has been made that employees of Municipal Committees are not entitled as of right to claim the same pay scales as employees of the Government. There can be no quarrel with this proposition. Learned counsel has relied upon **Anil Kumar Aggarwal and another v. State of Haryana and others** reported as 2009 (2), S.C.T. 452 wherein a Single Bench of this Court allowed parity in pay scales to the employees of the Haryana Agriculture Marketing Board with corresponding employees of the Government. Para

10 of that judgment reads as follows :-

“The State Government has revised the pay scale of its employees and also approved such revised pay scale to similarly situated Engineers of many other Boards and Corporations. The respondent-State is maintaining parity in respect of pay scale of employees of Board or Corporations with that of the employees of State Government. Such fact has not been disputed in the written statement. Therefore, to grant revised scale only w.e.f. 1-4-93 instead of 1-5-89 seems to be totally arbitrary and without any reasonable basis. The Board has resolved to grant higher pay scale in the manner granted by State Government to its employees. Such resolution was based upon the circular of the State Government. Therefore, the plea of administrative factors and financial constraints seems to be a plea bereft of any factual and legal basis. Hon'ble Supreme Court in **G.S. Uppal's case** (Supra) dealing with the similar claim of another Government company held to the following effect:-

"The decision of the Government in rejecting the proposal of the Board of Directors suffers from the vice of invidious discrimination and cannot be sustained because the very same decision of the Board with regard to all other employees has since been accepted and approved by the State Government. On the scrutiny of the material on record, it is clear that the appellants did not produce any evidence on record to establish that the working conditions, responsibilities and nature of duties etc. of the respondents are different to their counter parts working in the same categories in the State Government, Boards and other Corporations, etc. and also the persons who are working with the corporation on deputation.

A careful examination shows that the issue was not really about grant of scales to corporation engineers on par with PWD engineers. When the pay revision took place, the revised pay scales that were given to the engineers of the State Government were also given to the engineers of the corporation with effect from 1-1-1986 thereby maintaining the parity. What was not extended to the corporation employees, which is the subject matter of the grievance, is the further revision by way of removal of anomaly in pay scales given to AEE/ AE/ SDO/ SDE of the State Government with effect from 1-5-1989 vide circular dated 2-6-1989 of the Finance Commissioner. The real question would be whether what is given by way of anomaly removal in the case of engineers of state government, should automatically be extended to the corresponding categories of engineers of the corporation. When, after a pay revision, an anomaly is found in the pay scale given to a class of government servants and

such anomaly is rectified, it is not a new pay revision but a correction of the original pay revision, or an amendment to the pay scale that has already been granted. Therefore, where the pay revision extended to the government servants has already been extended to the employees of the corporation also, it follows that any correction of anomaly in the revised pay scale given to the government servants should also be made in the case of those who were earlier given parity by extending the pay scale which is subject matter of the correction. It should be borne in mind that the question whether corporation engineers were on par with PWD engineers and should be given parity in pay scales was already decided when the pay scale revision granted to Government (PWD) engineers was extended to the corporation engineers also with effect from 1-1-1986. That question did not again arise when the anomaly in the pay revision was rectified with reference to the Government engineers. When the anomaly in the pay revision was rectified with reference to the Government engineers. When the anomaly in the pay scale of government engineers was rectified, the rectification should apply to corporation engineers also to maintain the parity."

In my opinion this judgment instead of supporting the petitioner rather justifies the stand taken by the State. In that case it was specifically averred that the Government had decided to maintain parity in pay scales between its employees and that of statutory Boards and Corporations. In the present case the Government has denied that it wants to have any parity. No replication has been filed.

In the circumstances the mere fact that Head Clerks in Government departments are getting higher pay scale can not be held sufficient to grant higher pay scales to the petitioners in the present case.

No other point has been urged.

The petition is dismissed.

(AJAY TEWARI)
JUDGE

March 18, 2015
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