

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9334-2000

Date of Decision: 01.07.2015

Mange Ram & ors.

... Petitioners

Versus

State of Haryana and ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL.

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

Present: Mr. R.K. Malik, Sr. Advocate with
Mr. Tej Pal Dhull, Advocate for the petitioners.

Mr. Hitesh Pandit, Addl. A.G. Haryana.

AMIT RAWAL, J. (ORAL)

The petitioners have knocked the door of this Court by invoking the jurisdiction of this Court under Article 226 of the Constitution of India for quashing of order dated 04.11.1999 (Annexure P-6), whereby the claim of the petitioners for removal of anomaly in the pay-scale of Assistant Research Officer has been rejected and with further direction to grant the same pay-scale which was admissible to the Assistant Research Officer of ESA Department, Haryana.

In nutshell, on 21.02.1985 for the first time the post of Assistant Research Officer was created in the Department of Welfare of SC & BC Department and the same qualification was fixed for the said post

which was prescribed for Assistant Research Officer working in ESA Department, Haryana.

It is the case of the petitioner that they were promoted as Assistant Research Officer on 22.04.1986, 17.10.1994, 16.09.1985, 22.04.1986 and 01.04.1998 respectively. The pay-scale admissible to the petitioners and Assistant Research Officer working in the ESA Department, Haryana was identical i.e. ₹700-1400/- w.e.f. 01.01.1986. Owing to the revision of the pay-scale both the Assistant Research Officer working in SC & BC Department and as well as in ESA Department, Haryana were granted pay-scale of ₹1640-2900/- and thereafter w.e.f. 01.01.1996 ₹5500-9000/-.

Mr. R.K. Malik, learned Senior Counsel for the petitioners submits that cause of action accrued in favour of the petitioner when the respondents vide order dated 07.08.1998 (Annexure P-2) revised the pay-scale of Assistant Research Officer working in the Department of Statistics from ₹5500-9000/- to ₹6500-9900/- w.e.f. 01.01.1996. However, the petitioners, who were drawing the same pay-scale in the Department of SC & BC were denied the said revision.

The petitioners stated to have made a representation to this effect vide Annexure P-3 and reminders vide Annexures P-4 & P-5. However, vide impugned order dated 04.11.1999 (Annexure P-6), case of the revision of the pay-scale has been rejected.

Mr. R.K. Malik, learned Senior Counsel has pointed out to the categorical averments made in the paragraph Nos.4 and 5 of the writ petition & as well as corresponding paras of the written statement which read thus as under:-

“4. That on the recommendation of the expert

revision committee, again pay-scale were revised w.e.f. 01.01.1986 both Assistant Research Officer working the present department as well as working in ESA Department were granted the scale of Rs.1640-2900.

5. That w.e.f. 01.01.1996, again pay scale were revised on the recommendation of the expert pay commission, again both the categories i.e. Assistant Research Officer of Welfare of SC & BC Department and ESA Department were granted the pay scale of Rs. 5500-9000/-.”

“4. That the contents of para 4 are not disputed.

5. That the contents of para 5 are not disputed.”

Mr. Hitesh Pandit, Addl. A.G. Haryana submits that since the quality and quantity of the work of Assistant Research Officer of Department of SC & BC is substantially different than that of the Department of Statistics, therefore, the claim of the petitioner claiming the same pay-scale cannot be treated at par.

Mr. R.K. Malik, learned Senior Counsel in rebuttal has drawn the attention of this Court letter dated 24.09.2010 Annexure P-7 written by Financial Commissioner & Principal Secretary to Government of Haryana, Welfare of Scheduled Castes and Backward Class Department, Chandigarh to Director, Welfare of Scheduled Castes & Backward Classes Department, Haryana, Chandigarh, whereby pay-scale of ₹6500-9900/- has been granted to Assistant Research Officer though w.e.f. 2010.

In order to lend support of the aforementioned submission, Mr.

R.K. Malik, learned Senior Counsel has relied upon following case laws to

contend that once the State Government have decided to equate the pay-scale of certain post w.e.f. that of another post it is not open to the Government to discriminate the incumbents of the two post for grant of the pay-scale:-

- “1. 1987(4) SLR 594, *Kirpal Jeet Vs. State of Punjab and another.*
2. 1991(2) SLR 336, *Dr. Sukhdev Singh and others Vs. State of Punjab and another.*
3. 2000(5) SLR 353, *Babu Ram and others Vs. State of Haryana and others.*
4. 2000(5) SLR 509, *Pritam Das & ors. Vs. State of Punjab and another.*”

Mr. Hitesh Pandit, Addl. A.G. Haryana submits that office of the Advocate General vide letter dated 24.04.2015 has sought information from the Director, SC & BC Department, Haryana, Chandigarh with regard to the noting portion/letter dated 24.09.2010 (Annexure P-7) but till date neither any reply has been filed nor any concerned officer has come to render assistance.

I have heard learned counsel for the parties and appraised the paper book.

There is no dispute to the ratio descendi culled out in the aforementioned judgments where time and again this Court has grant the equal pay-scale as and when the discrimination is alleged.

It is a matter of record that petitioners and the persons working as Assistant Research Officer in the Department of Statistical from day one were getting the same pay-scale but the balance tilted more in favour of Assistant Research Officer working in Statistics Department in the year 1998 i.e. 07.08.1998 when the pay-scale were revised to ₹6500-9900/-.

However, as per the contention of the petitioners, they were discharging the

same nature and duties and later on in 2010, the State Government had woken up from this slumber for granting the relief to the similarly situated person w.e.f. 2010.

In view of what has been observed, the impugned order is hereby quashed as it suffers from the non-application of mind, much less, assignment of cogent reasons. As a result thereof, the petitioners in view of the ratio culled out in aforesaid judgments are entitled for revision of pay-scale w.e.f. 01.01.1996 i.e. ₹6500-9900/- till the date of their retirement.

The Department is directed to take into consideration the aforementioned fact while granting for pension and other retiral benefits. This exercise may be done within a period of three months from the date of receipt of certified copy of this order.

Accordingly, the present writ petition is allowed.

01.07.2015
pawan

(AMIT RAWAL)
JUDGE