

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

(1) CWP No.530 of 2004 (O&M)

Kulbir Kaur

..... Petitioner

versus

Bhakra Beas Management Board and others

..... Respondents

(2) CWP No.6253 of 2004 (O&M)

Malkiat Singh

..... Petitioner

versus

Bhakra Beas Management Board and others

..... Respondents

(3) CWP No.6258 of 2004 (O&M)

Jaspal Singh

..... Petitioner

versus

Bhakra Beas Management Board and others

..... Respondents

(4) CWP No.6721 of 2004 (O&M)

Yashpal and others

..... Petitioners

versus

Bhakra Beas Management Board and others

..... Respondents

Date of decision: 08.05.2015

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present:- Mr. I.D. Singla, Advocate,
for the petitioner(s).

Mr. Suram Singh Rana, Advocate
for the petitioner(s) (in CWP Nos.6721 of 2004).

Mr. Ajay Kumar Gupta, Advocate
for the respondents.

* * *

DEEPAK SIBAL, J.

These four petitions being **C.W.P. No.530 of 2004, C.W.P. No.6253 of 2004, C.W.P. No.6258 of 2004 and C.W.P. No.6721 of 2004**, involving common questions of fact and law, were taken up for hearing together and are being disposed of by this common judgment.

The undisputed facts which have emerged from the record as also from the arguments raised by the counsel for the parties at the bar, are that prior to 01.01.1996, the respondent-Bhakra Beas Management Board (hereinafter referred to as the 'Board') was following a three-tier pay structure for Lower Division Clerks, Senior Clerks and Junior Assistants in the ratio 20:40:40. After five years of service, a Lower Division Clerk was designated as Senior Clerk and after a further service of five years, a Senior Clerk was designated as a Junior Assistant, as per the ratio given above.

It is the undisputed position that all the petitioners were all designated as Junior Assistants w.e.f. 01.01.1996 and thus, placed in the pay scale applicable to the post of Junior Assistant.

On 19.05.1998 through a notification, the State of Punjab framed the Punjab Civil Services (Revised Pay) (First Amendment) Rules, 1998 (hereinafter referred to as the 'Rules') providing higher pay scales to various categories of employees. It was mandated that the Rules would come into force w.e.f. 01.01.1996. The relevant change that this notification brought out was that the above-referred three-tier pay structure was now converted to a two-tier pay structure of Clerks and Junior Assistants in the ratio 50:50. On the same lines, as the above-referred Rules, the Punjab State

Electricity Board also issued regulations called the Punjab State Electricity Board (Revised Pay) Regulations, 1998 (hereinafter referred to as the 'Regulations'). Like the above referred Rules, these Regulations were also to come into effect w.e.f. 01.01.1996. In the Second Schedule attached to these Regulations, the following note was provided:-

“The designation and the revised equivalent of the unrevised pay scales i.e. Rs/4150-6750 and 5125-8275 of the officials working as Senior Clerk/Junior Assistant as on 01.01.1996 shall be protected as a measure personal to them.”

It is the admitted position that the above Regulations apply to the employees of the respondent-Board like the petitioners.

In view of the above reproduced note, the pay of the petitioners which they were getting as on 01.01.1996 as Junior Assistants, was to be protected.

However, through a subsequent order dated 20.02.2002, the benefit that the petitioners were granted through the above quoted note was sought to be withdrawn seeking protection of the pay that the petitioners were getting as Junior Assistants as on 01.01.1996, the petitioners have approached this Court through the present writ petitions.

At the very outset, learned counsel for the petitioners drew my attention to a judgment of this Court rendered in **CWP No.22422 of 2010**, titled as '**Anil Kumar and others versus State of Punjab and others**' decided on 16.05.2012, the relevant portion of which is reproduced below:-

“The dispute raised in the petition is whether the petitioners are entitled to protection of the pay they were drawing on 1.1.96 or not. Admittedly the petitioners were promoted as Junior Assistants on

1.1.96. On 19.5.1998 the Punjab Civil Service (Revised Pay)(First Amendment) Rules, 1998 were promulgated which were deemed to have come into force w.e.f. 1.1.96. As per these rules the pay scale for the post of Clerks and Junior Assistants was revised and it was mentioned as follows:-

“The designation and the revised equivalent of the unrevised pay scale of officials working as Senior Clerk and Junior Assistant, as on 1st January, 1996, shall be protected as a measure personal to them.”

The short grievance of the petitioners is that since they were in office on 1.1.96 they were also entitled to have their pay protected. In the written statement it is sought to be argued that pay protection would in fact, be available to those who were placed as such prior to 1.1.96. In my opinion the clear meaning of the rule would not lend itself to this interpretation. Once the petitioners were in office on 1.1.96 they would be entitled to the benefit granted to them by the Government.

It is thus declared that the petitioners would be entitled to the protection of their pay in terms of the stipulation by the Government extracted above.”

It was further brought to my notice that the above quoted judgment was challenged through an intra-Court appeal in **LPA No.1729 of 2012**, titled as **State of Punjab and others versus Anil Kumar and others'** and the appeal was dismissed through order dated 05.02.2014, the operative part of which is reproduced below:-

“We are not inclined to accept that the above said argument which already stood rightly rejected by the learned Single Judge.

Reading of notification dated 19.5.1988 makes it very clear that the higher pay scales were granted with retrospective effect i.e. from 1.1.1996. It is specifically stated that the Rules notified on the above said date shall be deemed to have come into force on and w.e.f. 1.1.1996. At end of notification dated 19.5.1988 sic. 1998, which has been reproduced in earlier part of judgment, it is also stated that pay shall be protected of those officials who were working as Senior Clerks and Junior Assistants as on 1.1.1996. Combined reading of the provisions of the notification dated 19.5.1988 (Annexure P3) makes it very clear that intention of the authorities was to give higher pay scale and protection of pay etc. to those employees who were in service on the cut off date i.e. 1.1.1996 and not only to those who were in service prior thereto.”

Learned counsel for the petitioner submitted that the case of the petitioners was fully covered in view of the law laid down in the above quoted judgments.

Learned counsel appearing on behalf of the respondent-Board could not distinguish the above referred judgments cited by the counsel for the petitioners and he also did not cite any law to the contrary or dispute the facts as pleaded on behalf of the petitioners.

In view of the above, after holding that the case of the petitioners is covered by the above judgment of this Court, the present writ petitions are allowed in terms of the order dated 16.05.2012 passed by this Court in **CWP No.22422 of 2010** upheld by the Division Bench judgment in

LPA No.1729 of 2012. It is further directed that the petitioners would be entitled to protection of their pay in terms of Note 2 contained in the Second Schedule to the Regulations with all consequential benefits.

(DEEPAK SIBAL)
JUDGE

May 08, 2015
Jyoti 1