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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 9905 of 2013

Date of Decision: - 12.8.2015

Jarnail Singh and ors

.....Petitioners

vs.

State of Punjab and ors

.....Respondents

CORAM: - HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: - Mr. Gurminder Singh, Sr. Advocate with
Mr. J.S. Gill, Advocate for the petitioners.

Mr. Harkesh Manuja, Addl. AG, Punjab

.....

Rajiv Narain Raina, J (Oral)

This Court granted parity of pay to the members of the Statistical Wing of the Department of Agriculture bringing it at par with the corresponding and equivalent posts in the administrative wing of the same department. In compliance with the order passed by Division Bench of this Court in **CWP No. 5290 of 1996, Jatinder Singh and another vs. State of Punjab**, decided on 7.1.1997, the Financial Commissioner (Development), Punjab issued orders dated 18.2.2009 (Annexure P-3) in the name of Government of Punjab, Department of Agriculture granting pay scale of Rs. 3700-5300 (revised to Rs. 12000-16350 w.e.f. 1.1.1996) to the officers of the Statistical Wing irrespective of the completion of 8/18 years of service w.e.f. 1.1.1991 (or from the date of their joining whichever is latter). However, the arrears would be restricted to 38 months prior to the filing of the writ petition in **Jatinder Singh's case (supra)**. Thereafter, the pay scales

of both wings have been made equivalent.

The petitioners are PAS-II Statistical Wing Officers in Agricultural Department. After earning their promotion, they were placed in the old revised pay scale of Rs. 10300-34800 plus grade pay of Rs. 4400 from 1.1.2006. However, they were denied the benefits of higher pay scale in terms of the decision of this Court as implemented by the State Government. The Government did not remove the anomalies and did not grant them the higher pay scales, which brought the petitioners to this Court seeking a writ of certiorari to quash the orders refusing to grant them higher pay scales as PAS-II Officers and a writ of mandamus directing the respondents to grant them the petitioners higher pay scales along with other monetary benefits as accruing.

The State Government has filed written statement and the defence taken is that the pay scales were given to the officers appointed through direct recruitment in consultation with the Finance Department. The orders were implemented on 18.2.2009 after contempt petition was filed. Learned Additional Advocate General has pointed out that: -

- (1) Whether the stand taken is that the higher pay scales were given to the officers appointed for direct recruitment alone;
- (2) It was a measure of personal to them;
- (3) That after the decision of the Hon'ble Supreme Court dated 3.4.1998, the State Government generalized the orders dated 18.2.2009 and benefits have been given to PAS-II officers who were working at that time. This is a sum total of defence to the writ petition as contained in the para 11 to 14 of the written statement pointed out by Mr. Manuja, learned Additional Advocate General.

He further submits that these three reasons are germane to the decision taken in denying higher pay scales to the petitioners who were promoted as PAS-II Officers and were not party to the previous litigation.

Having heard learned counsel for the petitioners and learned Additional Advocate General Punjab, I am unable to persuade myself to the view of the State that any of the above three reasons are valid or can be read to be nullified. The decision taken in *Jatinder Singh's case (supra)*, and the orders passed by the Financial Commissioner (Development) Punjab are in implementation of the orders of this Court after dismissal of the Special Leave Petition arising out of CWP No. 5290 of 1996.

Learned counsel for the petitioners has taken me to the order dated 18.2.2009 passed by the Financial Commissioner (Development) Punjab which is the basic administrative decision following the decision of the Court and I find no where the words “*as a measure personal to them*”, mentioned in the administrative order whereby this Court granted equivalence of pay scales to the two wings. Similar treatment was based on the principle of parity and of equivalence of posts in the two wings in the same department and thus in order to remove any traces of unfair discrimination, the pay scales of both the wings were brought at the same level by granting them the higher pay scales on the promotional posts. In the case of the petitioners, if such a disparity is permitted to be continued, it would not only be unfair and discriminatory but would also be in contempt of the orders passed by this Court.

For the foregoing reasons, the present petition is allowed.

Direction is issued to the respondents to grant the petitioners higher pay scale of Rs. 3700-5300 (revised to Rs. 12000-16350) w.e.f. 2011-2012 i.e., from the dates of their promotions. Let the arrears be calculated and paid to the petitioners within three months from the date of receipt of a certified copy of this order. In case the pay scale of Rs. 10300-34500 stands further revised the petitioners would be entitled to the same. This direction is issued to avoid any further litigation.

(RAJIV NARAIN RAINA)
JUDGE

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