

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4727 of 1995

Date of Decision: 09.02.2016

Sat Pal and others

... Petitioners

Versus

The Secretary to Government of Punjab
and others

... Respondents

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

Present: Mr. J.C. Batra, Advocate,
and Ms. Gitika, Advocate,
for the petitioners.

Mr. Harkesh Manuja, Addl. AG, Punjab.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. Heard. In the beginning, Family Planning Field Workers, Sanitary Inspectors, Health Inspectors and Malaria Inspectors formed a single cadre placed in the same pay scale with a common seniority list. The petitioners belonged to the Family Planning Field Workers wing of that joint cadre.

2. In departure from past practice, on April 23, 1970 the cadre was bifurcated by the Government into two distinct components of the Health Department, Punjab. Meaning thereby the Family Planning Field Workers (FPPW) were separated from the posts of Sanitary Inspectors, Health Inspectors and Malaria Inspectors by cadre review. The cadre was split from point 454 of the seniority list then prevailing till which point the officials

were to be regarded as Sanitary Inspectors etc. and after running roster point 455 as FPFWs. Consequently, the provisional seniority list, gradation list and seniority lists were separated.

3. The petitioners base their claim on a provisional joint seniority list issued on December 01, 1978 wherein they have been shown senior to respondents No.3 & 4 but the list was provisional and not final and did not reflect the correct position obtaining after the cadre was bifurcated in 1970.

4. The heartburn among the petitioners began when 161 FPFWs belonging to their group were adjusted as Sanitary Inspectors and came to receive more pay and it is thus complained that this was a wrong committed compounded by the method of pick and choose policy adopted while adjusting these 161 FPFWs in the cadre of Inspectors. Even the Finance Department of the State of Punjab expressed its opinion that the post of Sanitary Inspectors carry higher pay scale than FPFW and the posts can be filled only through direct recruitment and not by way of adjustment. Even accepting the opinion of the Finance Department as correct even then the petitioners cannot make a *lis* of the adjustment as they would have no *locus standi* to question departure of 161 FPFWs from their cadre to the Inspector cadre on account of them possessing higher qualifications relevant to appointment of Sanitary Inspectors and thus those FPFWs were higher qualified than the petitioners and qualified enough to be Inspectors. It is well settled that a classification based on qualifications is a reasonable one and equals can be made unequal by applying higher qualifications to posts without inviting breach of Article 14 and 16 of the Constitution. This is what separates the two, that is, the petitioners and 161 FPFWs to form

separate classes based on qualifications. It is equally well settled position in law that higher qualifications can verily justify higher pay. The grievance is largely not stemming from separation of a common cadre, but arises mostly from migration of their ilk to Inspector cadre which led to pay disparity. Hence the adjustment is not open to cancellation at the hands of the petitioners who form a separate class and category of employees. And especially after over two decades passing by, though under litigation.

5. Therefore, I find no merit in this petition and would dismiss it.

(RAJIV NARAIN RAINA)
JUDGE

09.02.2016

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