

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

CWP No. 5358 of 2013

Date of Decision:- 15.11.2016

Karanjit SinghPetitioner

vs.

State of Punjab and othersRespondents

CWP No. 10216 of 2013

Sukhvir SinghPetitioner

vs.

State of Punjab and othersRespondents

CWP No. 10219 of 2013

Jagdeep Singh GalwatiPetitioner

vs.

State of Punjab and othersRespondents

CWP No. 7332 of 2016

Mahesh Kumar GargPetitioner

vs.

State of Punjab and othersRespondents

CWP No. 19093 of 2016

Balwinder SinghPetitioner

vs.

State of Punjab and othersRespondents

CORAM:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Gagneshwar Walia, Advocate,
for the petitioners in CWP Nos. 5358 of 2013 and
19093 of 2016.

Mr. Raj Kaushik, Advocate,
for the petitioners in CWP Nos. 10216, 10219 of 2013 and
7332 of 2016.

Mr. L.S. Virk, Addl.A.G., Punjab.

DAYA CHAUDHARY, J.

By this judgment of mine, five writ petitions bearing CWP Nos. 5358, 10216, 10219 of 2013, 7332 and 19093 of 2016 shall be disposed of as common questions of law and issues are involved therein. However, for the sake of convenience, facts are being extracted from CWP No. 5358 of 2013.

The petitioner has approached this Court by way of filing the present writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari for quashing of order dated 11.01.2013 (Annexure P-5) whereby arrears on account of equation of pay-scales of AME's with SDOs/SDEs/AEs and other Departments of State of Punjab have been restricted and only the benefit of notional pay fixation has been granted to the petitioner in terms of order dated 4.8.2010 passed by this Court in CWP No. 10803 of 2003, which is discriminatory and violative of Articles 14 and 16 of the Constitution of India. A further prayer has also been made for issuance of direction to the respondents to implement order dated 29.1.2013 (Annexure P-6) passed by respondent No.1 refixing the pay-scale of the petitioner at par with other similarly situated candidates and also to release the salary.

Briefly, the facts of the case, as made out in the present petition, are that petitioner was recruited by the Punjab Public Service Commission on the post of Assistant Mechanical Engineer (AME) on 29.1.1990. The basic qualification for the said post was Mechanical Engineering and petitioner was fulfilling that condition. The post of Assistant Mechanical Engineer is equivalent to the post of Sub Divisional Officer and Sub Divisional Engineer as the same qualification is required for both categories of posts as they perform the same work and duties. Even the recruitment agencies were also the same. The post of AME is equivalent to SDE but an anomaly had arisen at the time of 3rd pay commission when a lower pay scale was given for AMEs. The matter was considered by the Anomaly Committee vide order dated 15.2.1990 and both the posts i.e. AME and SDE/SDO were equated. The 4th pay commission also granted higher scales to SDE/AME in the Department of Irrigation and Power as well as PWD (B&R). However, while dealing with the Transport Department, Grades of AME were not discussed.

Learned counsel for the petitioner submits that on account of said anomalous situation, ten AMEs of Transport Department filed CWP No. 10823 of 2003 before this Court for issuance of direction to remove the anomalies in the case of AMEs and to grant them same pay-scale as has been given to SDOs/SDEs/AEs in other departments of State of Punjab. In said writ petition, the judgment rendered in **CWP No. 17715 of 2007** titled as **Dhiraj Goyal and others vs. State of Punjab and others**, decided on 11.5.2009, was relied upon. Learned counsel also submits that case of the petitioners in CWP No. 10823 of 2003 was sent to

Finance Department and the approval was also granted with a direction to give benefit of equation of pay-scales of AMEs with SDOs/SDEs of other Departments. Learned counsel also submits that in principle, it was decided to grant equal pay-scale to AMEs and SDOs/SDEs of other departments and accordingly, the pay-scales were re-fixed and arrears were also granted only to those persons who filed CWP No. 10823 of 2003. Learned counsel also submits that another similarly situated employee, namely, Iqbal Singh Sandhu, AME, was also granted said benefit as he was also the petitioner in the said writ petition. At the end, learned counsel for the petitioner submits that petitioner is also Assistant Mechanical Engineer and is entitled for the same benefit which has been granted to other similarly situated employees and as such, his case is also squarely covered by decision in CWP No. 1308 of 2013 titled as **Paramvir Singh and others vs. State of Punjab and others**, decided on 8.7.2014 (Annexure P-8). Learned counsel has also relied upon a judgment of Division Bench of this Court rendered in **Satbir Singh vs. State of Haryana**, 2002(2) SCT 354 in support of his arguments wherein it has been held that in case the judgment has attained finality, the State has to grant relief to all its employees, who are similarly situated but still the case of the petitioner has not been considered.

Learned counsel for the respondent-State has opposed the submissions made by learned counsel for the petitioner on the ground that during pendency of the petition, the pay of the petitioner has been re-fixed and that order has not been challenged. Petitioner and other similarly situated candidates have been granted pay-scale as has been granted to petitioners in CWP No. 10823 of 2003 w.e.f. 1.1.1996 notionally

and as such the petitioner is not entitled for the relief claimed in the petition.

Heard arguments of learned counsel for the petitioner as well as learned counsel for the respondent-State and have also perused the documents available on the file.

The grievance of the petitioner in the present petition is to the extent that the petitioner has not been granted arrears on account of equation of pay-scales with AMEs/SDOs/SDEs and AEs of other Departments and the same has been restricted by granting benefit of notional pay fixation as has been granted to petitioners in CWP No. 10823 of 2003 (Annexure P-1). Petitioner is similarly situated and he cannot be discriminated as order dated 4.8.2010 was containing general directions for considering the matter afresh so as to remove pay-scale anomalies, meaning thereby the benefit was to be granted to all similarly situated employees. Once the respondents have decided, in principle, that AMEs of Transport Department are equivalent to SDO/SDE of other departments of State of Punjab, then the benefit has to be given to all similarly situated persons. The petitioner cannot be discriminated by granting him the benefit notionally by restricting arrears, which is violative of Articles 14 and 16 of the Constitution of India.

Same issue has arisen in CWP No 1308 of 2013 wherein it was held by this Court that the action of respondents, in passing impugned order, is discriminatory and the same was declared illegal and was set aside accordingly. Petitioners in that case were held entitled for parity with

Assistant Mechanical Engineers regarding pay-scales. Respondents were

directed to grant same pay-scale to the petitioners in said case, which was granted to Assistant Mechanical Engineers, along with all consequential benefits, including re-fixation of their pay and arrears of salary. The relevant portion of said judgment is reproduced as under:-

“Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present writ petition deserves to be allowed and the same is hereby allowed. The impugned action taken by respondent No.2, while passing the impugned order dated 4.1.2013 (Annexure P-4), is hereby declared illegal and the same is set aside. Petitioners are held entitled for parity with Assistant Mechanical Engineers in the matter of pay scales. Respondents are directed to grant same pay scales to the petitioners, which have been granted to the Assistant Mechanical Engineers, with all consequential benefits, including re-fixation of their pay and arrears of salary. The respondent administrative department is directed to complete this exercise within a period of three months from the date of receipt of certified copy of this order.”

In support of the view taken in that judgment, this Court has also discussed certain judgments of Hon'ble the Apex Court as well as this Court rendered in cases of **Purshottam Lal and others vs. Union of India and another (1973) 1 SCC 651; Haryana State Minor Irrigation**

Tubewells Corporation and others v. G.S.Uppal and others, 2008(7) SCC 375; G.K.Nagpal and others v. The Punjab State Electricity Board, Patiala, 1998(2) SLR 642 (DB) P & H; Dhiraj Goel and others v. State of Punjab and others passed in CWP No.17715 of 2007 decided on 11.5.2009; Darshan Singh etc v. The State of Punjab etc. (CWP No.13330 of 1994) decided on 15.5.2009 and R.K.Aggarwal and others Vs. State of Punjab (CWP No.2605 of 1998) decided on 2.7.2014.

In view of facts as mentioned above, there is merit in the contentions raised by learned counsel for the petitioner and as such the writ petition is allowed in the same terms as CWP No. 1308 of 2013 titled as **Paramvir Singh and others vs. State of Punjab and others.** Respondents are directed to grant the same benefit to the petitioner as has been granted to the petitioners in CWP No. 1308 of 2013 along with all consequential benefits, including re-fixation and arrears of their salary. The necessary exercise be done within a period of three months from the date of receipt of certified copy of this order.

No order as to costs.

November 15, 2016
poonam

(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned

Yes

Whether reportable

Yes