

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

**CWP No.736 of 2015
Date of decision: 20.01.2016**

Tek Chand and others

....Petitioners

Versus

Punjab and Haryana and High Court and another

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.K. Garg Narwana, Sr. Advocate
with Mr.Sushil Bhardwaj, Advocate
for the petitioners.

Mr. Amit Chaudhary, Advocate
for respondent No.1.

Mr. J.S. Bhullar, Addl. A.G., Punjab.

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

RITU BAHRI J. (Oral)

The petitioners have filed this civil writ petition for quashing the impugned letter dated 25.04.2014 (Annexure P-15), impugned minutes of meeting dated 24.07.2014 (Annexure P-17) and further seeking direction to respondents to rectify the anomaly in the pay-scale of the petitioners working in this Court and to grant them the benefit along with arrear and interest from the date

when it became due till its realization.

2. The petitioners are working as Book Binders in this Court. They are Class III employees and fall in Group-C. The post of Book Binders is a technical post and thus, comes in hierarchy between the cadre of Clerk and Junior Assistant i.e. above Clerk and below Junior Assistant i.e. equivalent to Senior Clerk. The pay scale granted to the aforesaid three cadres as on 01.01.2006 is being reproduced as under:-

Sr. No.	Pre-revised			Revised			Initial Pay
	Group	Pay Scale	Pay Band	Group	Corresponding Pay Bands	Grade Pay	Initial Pay
	xx	xx	xx	xx	xx	xx	xx
4.	C (Clerk)	3120-5160	PB2	C	5910-20200	1900	7810
5. & 6.	xx	xx	xx	xx	xx	xx	xx
7.	C (Book Binders)	4020-6200	PB2	C	5910-20200	2400	9880
8.	C (Junior Assistant)	4400-7000	PB2	C	5910-20200	2800	11170

3. From the perusal of the aforesaid table shows that not only the grade pay of Book Binders is higher than the Clerk, but also there is substantial difference between initial pay of the two cadre i.e. Rs.7810/- for Clerk and Rs.9880/- for Book Binders. Whenever there has been any increase in the pay scale of the cadre of Book Binders, Clerk and Junior Assistant, the Book Binders have been placed in a higher pay-scale than the Clerk. The copy of the Chart showing the pay-scale revised in the year 1996 and 2006 is Annexure P-1. The Government of Punjab vide its notification

No.5/114/09-5FPI/655 dated 03.10.2011, while increasing the grade pay of Clerk from Rs.1900/- to Rs.2400/- and of Junior Assistant from Rs.2800/- to Rs.3200/-, does not increase the grade pay of Book Binders as there is no mention in respect of Book Binders in the said notification. The relevant details of said notification reads as under:-

Sr. No.	Name of the Post	Revised Scale of Pay			Revised Scale of Pay w.e.f. 01.10.2011		
1	2	3	4	5	6	7	8
1.	Clerk	5910-20200	1900	7810	5910-20200	2400	9880
2.	Junior Assistant	5910-20200	2800	11170	10300-34800	3200	13500

The aforesaid notification was adopted by this Court vide office order dated 16.10.2011.

4. Further, the Government of Punjab vide notification No.5/10/09-5FPI/1983 dated 15.12.2011, revised the pay-scales and grade pay of Clerk and Junior Assistant. The relevant details of the said notification (Annexure P-2) reads as under:-

Sr. No.	Name of the Post	Revised Scale of Pay			Revised Scale of Pay w.e.f. 01.10.2011		
1	2	3	4	5	6	7	8
1.	Clerk	5910-20200	2400	9880	10300-34800	3200	13500
2.	Junior Assistant	10300-34800	3200	13500	10300-34800	3600	14430

5. Learned senior counsel for the petitioners contends that the grade pay of Clerk and that of Junior Assistant has been revised twice i.e. vide notifications dated 03.10.2011 and

15.12.2011, but there was no revision in the grade pay of Book Binders. The Government of Punjab vide notification No.5/10/09-5FPI-556 dated 23.12.2011, has revised the pay-scales of various categories including the scale of Supervisor w.e.f. 01.12.2011 in the scale of Rs.5910-20200+2800 Grade Pay with initial start of Rs.11,170/-. Record Supervisors and Book Binders were in the same pay scale in the revised scales w.e.f. 01.01.2006. He has further submitted that the grade pay of Record Supervisor has been revised vide notification dated 23.12.2011, but again there was no mention of the Book Binders in the said notification. Vide notification No.3/10/10-5FP2/839 dated 23.12.2011, various categories of employees have been granted Secretariat Pay. The relevant details from the said notification reads as under:-

Sr. No.	Name of Posts	Rate per mensum (in Rs.)
1.	Clerk	400
2.	Steno-Typist	400
3.	Junior Assistant	500
4.	Junior Scale Stenographer	500
5.	Senior Assistant	900
6.	Senior Scale Stenographer	900
7.	Superintendent Grade II	1200
8.	Personal Assistant	1200
9.	Section Officer (SAS)	1300
10.	Additional Secretary	2500
11.	Special Secretary	2500

6. Learned senior counsel for the petitioners further contends that the petitioners, being aggrieved by the abovesaid anomaly in the pay-scales, made a detailed representation dated

09.02.2011 (Annexure P-4) to the respondent No.1. After examining the matter in detail the report (Annexure P-7) was put up before the Hon'ble Committee for consideration and the Hon'ble Committee in its meeting on 08.11.2012, recommended that the Government of Punjab may be moved to rectify the anomaly by granting the pay-scale of Rs.10300-34800+3400 Grade Pay, to the petitioners-Book Binders. The copy of the Minutes of Meeting dated 08.11.2012 is Annexure P-8. The decision taken by the Committee in the meeting held on 08.11.2012 on Item No.1, is reproduced as under:-

“ITEM NO.1: Representation dated 09.02.2011 from Sh. Tek Chand and other Book Binders of this Court regarding rectification in anomaly in the pay scale of the applicants i.e. Book Binders.

There being no comparable post of the Book Binders in the Punjab Civil Secretariat, the case of the Book Binders does not seem to have been considered by the Government of Punjab while revising the pay scale from time to time. We find that an anomalous situation has arisen due to said reason. The Committee, thus, after considering the representation of the Book Binders, recommends that the Government of Punjab may be moved to rectify the anomaly by granting to the Book Binders the pay band of

Rs.10300-34800 and the Grade Pay of Rs.3400, i.e. between Clerks and Junior Assistants, as was their position earlier.”

The said proceedings were duly approved by the Hon'ble Chief Justice on 21.11.2012 and in compliance of the order dated 21.11.2012, the draft letter was sent to the Under Secretary Finance (J) Government of Punjab, Department of Finance, Civil Secretariat, Punjab, Chandigarh with a request to rectify the anomaly by granting the pay-scale of Rs.10300-34800+3400 Grade Pay. The Government of Punjab, Department of Finance vide letter No.7/276/2012-2FPI/788 dated 07.02.2013 has informed that Finance Department is unable to revise the pay-scales of Book Binders under the provisions contained in the Instructions of Finance Department dated 23.05.2012.

7. At this stage, learned senior counsel for the petitioners has placed reliance on the judgment passed in **CWP No.488 of 2015**, titled as ***“Gurbir Singh and others vs Punjab and Haryana High Court and another”*** decided on 16.01.2015, by Co-ordinate Bench of this Court and submits that the Gurbir Singh's case has been implemented.

8. Learned counsel for the respondent states that no LPA has been filed against the ***Gurbir Singh's case (supra)*** and the case of the petitioners is squarely covered by the said judgment.

9. I have heard the learned counsel for the parties and

have gone through the record of the case carefully.

10. The power and authority of Chief Justice of High Court to prescribe pay scales of employees and consider mergers and equation of posts has been considered by the Supreme Court in a vivid enunciation of the scope of powers in “***Union of India v. S.B.Vohra and others***”, (2004) 2 SCC 150: 2004(3) SLR 353.

The Supreme Court after noticing a large number of its previous decisions declared that it is not appropriate for the State Government to exercise control over subjects provided under Article 229 (2) of the Constitution and the State Government may not refuse approval which has been accorded by the Chief Justice. Refusal of approval by the Government is not sustainable in view of the absolute control that has been vested in the Chief Justice of the High Court over his staff and servants which is free from interference by the Government, subject to limitations imposed by the law itself.

11. The Co-ordinate Bench of this Court while disposing of ***Gurbir Singh's case (supra)*** in last para, held as under:-

“For the reasons recorded above, these petitions are allowed. The impugned orders are set aside. The defence of the State in the impugned orders are quashed on certiorari issued. A mandamus is issued to the State of Punjab-respondent No.2 to give effect to the decision of the Chief Justice of this Court forthwith and steps be taken to act in the aid of the Chief Justice by restoring the status quo ante as on 1.1.2006 and the

monetary benefits including difference of arrears of pay accruing there from be calculated and paid to the petitioners and non-party post holders within two months from the date of receipt of a certified copy of this order. It is directed that interest on arrears will run at the rate of 12 percent simple per annum till payment is made, since the petitioners and those who are likely to benefit have been deprived of use of money unjustly which was legally their due but was wrongfully withheld under colour of perverse orders/stand taken in defence which are nullified as a result of this order.”

12. Keeping in view the above facts and circumstances and in view of ***Gurbir Singh's case (supra)***, the present writ petition is allowed and respondent No.2 is directed to consider the decision of Hon'ble Chief Justice of this Court forthwith. Respondent No.2 is further directed to calculate and pay the monetary benefits including difference of arrears to the petitioners within two months from the date of receipt of certified copy of this order along with 12% interest on arrears from the date when it became due till its realization.

(RITU BAHRI)
JUDGE

20.01.2016
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