

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

1. CWP No. 18535 of 1995

Satish Kumar & Others

...Petitioners

Versus

State of Punjab & Others

...Respondents

2. CWP No. 20164 of 2003

Narinder Pal Singh & Others

...Petitioners

Versus

State of Punjab & Others

...Respondents

Date of Decision: 15.03.2017

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- None for the petitioner(s).

Mr. Pankaj Mulwani, Deputy Advocate General, Punjab.

JAISHREE THAKUR, J.

This common order shall dispose of above noted two writ petitions as the issues involved therein are identical. However, for the sake of convenience, facts are being extracted from CWP No. 18535 of 1995.

The instant writ petitions have been filed under Article 226 of the Constitution of India seeking a direction to be issued to the respondents to place the petitioners, who are working as Statistical Assistants in the Department of Food and Supplies, Punjab, in the same pay scale as is available to the Assistants, Accountants and Auditors in the same Department.

In brief, the petitioners all are the employees of the Department of Food and Supplies, Punjab and hold Class-III posts. At the time of their appointment, their conditions of service were regulated by the Punjab Food and Supplies Department (State Service) Class-III Rules, 1968 (*for short '1968 Rules'*). Petitioners No. 1, 2 4 and 12, at the first instance, were appointed against the posts of Clerks and thereafter promoted to the posts of Statistical Assistants. Petitioner No. 3 was inducted against the post of *Daftri* thereafter promoted to the post of Clerk and then as Junior Auditor and finally was promoted as Statistical Assistant. Petitioners No. 10 and 11 were originally appointed as Steno-Typists, thereafter promoted to the posts of Statistical Assistants and the remaining petitioners No. 5, 6 to 9 were direct recruits to the posts of Statistical Assistants.

Under the 1968 Rules, the post of Statistical Assistant is in the pay scale of Rs. 116-250. In the recommendations of the Third Punjab Pay Commission, the posts of Accountants, Assistants, Auditors and Statistical Assistants had been placed in the pay scale of Rs. 1500-2640. A notification dated 19.05.1998 came to be issued in which Statistical Assistants working in the Departments of Agriculture, Animal Husbandry, Education (Schools), Electrical Inspectorate, Forests, Health, Family Welfare, Rural Development and Panchayats, Social Security, Women and Child Development, Soil Conservation and Youth Services were granted a revised pay scale of Rs. 5800-9200 w.e.f. 01.01.1996. However, the petitioners were placed in the pay scale of Rs. 5480-8925. Aggrieved against the disparity in the pay scale, the instant writ petition has been filed.

It is urged that as per the recommendations of the Third Punjab

Pay Commission, the posts of Accountants, Assistants, Auditors and Statistical Assistants had been placed in a common pay scale arising out of a common cadre with a pay scale of rs. 1500-2640. The case of the petitioners is that the duties and responsibilities of the Accountants, Assistants, Auditors and Statistical Assistants have remained the same since 1978 and there is no addition or deletion from the duties and responsibilities and, therefore, the petitioners are entitled to the pay scale of Rs. 5800-9200. It is submitted that initially the post of Statistical Assistants was placed in a higher scale than that of the post of Assistants, Accountants and Junior Auditors under the 1968 Rules. Thereafter, the posts were equated and once the posts have been equated, the Statistical Assistants ought to have been given the same pay scale as has been given to the Assistants, Accountants and Junior Auditors.

Reply has been filed in which a stand has been taken that the Fourth Punjab Pay Commission has examined the pay of the State Government Employees including the petitioners. It is submitted that the nature and share of the duties and responsibilities of the petitioners are altogether different from those in the clerical cadre and, therefore, the Statistical Assistants can not claim parity in the matter of pay scales with Accountants, Assistants and Junior Auditors. It is contended that the duties of the Statistical Assistants in the office of the Food and Supplies Department mainly relate to the compilation of figures of food grains received from the field staff and they transmit this data to the Head Office, whereas, duties of Senior Assistants are mainly to deal with the service matters after going through the various service rules, financial rules and government instructions

on the subject. Furthermore, Senior Assistants also perform the duties of confirmation and finalization of seniority lists, proposals regarding appointments whether direct recruitment or by promotion. They also deal with the audit of objections, checking of pay bills, disciplinary cases, leave sanction etc. Junior Auditors' work relates to audit and accounts and, therefore, the placement of the post of Junior Auditors, Assistants, Accountants and Statistical Assistants in Appendix 'B' at Sr. No. 3 does not equate all these posts. Therefore, it is urged that the petitioners would not be entitled to seek parity in pay scale.

I have come to the pleadings of the parties with the assistance of learned counsel appearing on behalf of the respondents-State.

It has been held in *AIR 1982 SC 879, Randhir Singh & others vs. Union of India* the equation of posts and payment are the matters to be decided by expert bodies like the pay commission. In *Union of India vs. Tarit Ranjan Das, (2003) 11 SCC 658* and *Union of India and another vs. P. V. Hariharan and another, (1997) 3 SCC 568*, a similar view has been expressed, wherein, it has been held that the fixation of pay scale is a function of the Government and once an expert body has gone into the issue, it is not open for any Court to sit in judgment as on appeal over the conclusion arrived at. Recently, in *State of Punjab and others vs. Jagjit Singh and others, (2017) 1 SCC 148*, while noting the judgment of *State of West Bengal vs. Minimum Wages Inspectors Association* held “that the parity in pay, under the principle of “equal pay for equal work”, cannot be claimed merely on the ground that at an earlier of time the subject post and the reference post were placed in the same pay scale. The principle of “equal pay for equal work” is

applicable only when it is shown that the incumbents of the subject post and the reference post discharge similar duties and responsibilities”.

The Fourth Punjab Pay Commission, which was constituted, has already determined this matter and while noting the difference in the nature of work has placed the Statistical Assistants in the pay scale of Rs. 5480-8925. Once an expert body has already gone into this issue while taking note of the nature of works, no further orders are called for in these writ petitions.

Accordingly, both the above noted writ petitions are dismissed.

March 15, 2017
Ansari

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No