

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

**(1)**

**CWP No.18663 of 2013**

**Navdeep Singh and others**

.....Petitioners

*Versus*

**State of Punjab and others**

...Respondents

*And*

**(2)**

**CWP No.21483 of 2013**

**Sukhbir Singh Sodhi and others**

.....Petitioners

*Versus*

**State of Punjab and others**

...Respondents

**Date of decision: 27.11.2017**

**CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY**

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

Mr. Navdeep Chhabra, DAG, Punjab.

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**DAYA CHAUDHARY, J.**

This judgment of mine shall dispose of two Civil Writ Petition

Nos. 18663 and 21483 of 2013 as identical question of law and facts are

involved for adjudication. However, for the sake of convenience facts are being extracted from C.W.P. No. 18663 of 2013.

The petitioners have approached this Court by way of filing the present petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of notification dated 21.12.2011 (Annexure P-11), orders dated 2.7.2012 (Annexure P-13) and 18.7.2012 (Annexure P-14) as their claim with regard to pay scales has been rejected without considering the parity with other candidates working on the post of Agriculture Development Officers of the Administrative Wing. Earlier both the categories i.e. category of the petitioners as well as the candidates working on the post of Agriculture Development Officers of the Administrative Wing were getting the same pay scale for years together but subsequently different pay scales have been granted.

A further prayer has also been made for issuing directions to the respondents to fix the pay of the petitioners from due date i.e. 1.1.1996 or from the date of joining, whichever is later along with all consequential benefits after fixing their pay and arrears notionally in accordance with the pay scales given on completion of 4,9 and 14 years of service in pursuance of judgment dated 5.1.2012 passed in C.W.P. No. 23138 of 2010 titled as **Dr. Naresh Kumar Kataria and others Vs. State of Punjab and others.**

Briefly, the facts of the case as made out in the present petition are that the petitioners were initially working on the posts of Junior Agriculture Engineer, which was redesignated as Assistant Agriculture Engineer Grade-II. The petitioners are claiming parity with the candidates

who were working on the post of Agriculture Inspectors subsequently redesignated as Agriculture Development Officers. The petitioners are governed by the Punjab Agricultural Subordinate Service (Class-III) Rules, 1933. Both the categories i.e. Assistant Agriculture Engineers Grade-II and Agriculture Development Officers were getting same pay scales for the last many years. Rather the petitioners were getting more pay scales viz-a-viz the persons working on the post of Agriculture Inspector, who were subsequently redesignated as Agriculture Development Officers.

The petitioners are aggrieved by the action of the respondents in not granting equivalent pay scales at par with candidates working on the post of Agriculture Development Officer on Administrative side and also the persons working on the same post in other Departments. The petitioners are claiming parity with those candidates who were getting same pay scale and even lesser to the pay scales of the petitioners but subsequently the petitioners have been kept in a lower pay scale.

Learned senior counsel for the petitioners submits that action of the respondent-Department is not only arbitrary but discriminatory as well as an anomalous situation has been created by not granting the same revision in the pay scale to the petitioners as has been granted to the candidates working on the equivalent post of Agriculture Development Officers. The petitioners were getting equivalent and even higher pay scale throughout till 30.11.2011 but they were not granted the same revision in pay scales w.e.f. 1.1.1996 and as such the parity has not been maintained in the pay scales granted subsequently. Learned senior counsel further submits

that it is well settled law that once equivalent pay scales are granted to certain posts, parity is to be maintained and it cannot be disturbed without any justified reason. Learned senior counsel also submits that under similar circumstances in C.W.P. No. 5290 of 1996 titled as **Jatinder Singh and another Vs. State of Punjab** decided on 7.1.1997, the parity of equivalent pay scale for equivalent posts has been maintained. In aforesaid case, the officers who were holding equivalent posts of Class-II officers of the Administrative Wing, the revision in the pay scale was made on the basis of restructuring of the administrative cadre officers by supporting the case of the petitioners. At the end, learned senior counsel submits that there has not been any change in the nature of duties of the petitioners viz-a-viz other officers working on the post of Agriculture Development Officers. Learned senior counsel for the petitioners has also relied upon the judgments of Hon'ble the Apex Court in the cases of **State of Punjab and others Vs. The Senior Vocational Staff Masters Association and others** 2017 SCC OnLine SC 949, **D.G.O.F. Employees Association and another Vs. Union of India and others** 2014 SCC OnLine Del 1989, of this Court in the cases of **Haryana State Biologists Association Vs. The State of Haryana** 1994 (3) S.C.T. 198 and **G.K. Nagpal Vs. Punjab State Electricity Board**, in support of his contentions.

Learned State counsel has opposed the submissions made by learned senior counsel for the petitioners and submits that both the posts are entirely different and their cadre is also different. He further submits that for claiming parity, it is required to prove the identity and parity between

two posts as has been held by Hon'ble the Apex Court in the case of **Mew Ram Kanojia Vs. All India Institution of Medical Sciences and others** 1989 (2) SCC 235. Learned State counsel also submits that in case at any earlier point of time two posts were carrying the same pay scale, it is not necessary that after implementation of revision in pay scales both the categories would be in the same pay scale. Different posts are having different pay scales because of difference in their duties and functions. Benefit of higher pay scale can only be granted in case the holder of the post is discharging identical duties and function with each other as has been held by Hon'ble the Apex Court in the cases of **State of West Bengal and another Vs. West Bengal Minimum Wages Inspectors Association and others** 2010 (3) SLR 677 and **State of Punjab and others Vs. Jagjit Singh and others** 2016 (4) SCT 641. At the end, learned State counsel submits that duties of the petitioners are different from the post of Agriculture Development Officers. The duties of Agriculture Development Officer is to guide farmers regarding issues relating to agronomy, plant pathology, entomology, mechanization and marketing etc. They have also to perform the duties of Insecticide Inspectors, Fert Inspectors and also to act as Analyst in the laboratories. The petitioners and others persons are posted only at District and State Headquarter and have to guide farmers relating to mechanization and tubewell part only. Their duties are entirely different even from the Engineers working in other Departments of State Government. Learned State counsel also submits that the equation of post with pay scales is the matter, which should be left to the executive only and

normally Courts do not interfere into such exercise. Learned counsel has also relied upon the judgments of Hon'ble the Apex Court in the cases of **State of Haryana and another Vs. Haryana Civil Secretariat Personal Staff Association** 2002 (3) SCT 674, **Government of Andhra Pradesh Vs. P. Hari Hara Prasad** 2002 (4) S.C.T. 562, **State of U.P. And others Vs. J.P. Chaurasia and others** 1988 (5) SLR 638, **S.C. Chandra and others Vs. State of Jharkhand and others** 2007 (4) S.C.T. 76, of this Court in the case of **The Ropar District Co-operative Milk Producers Union Limited, Milk Plant, Mohali Vs. The Presiding Officer, Industrial Tribunal, Punjab, Chandigarh and others** 2010 (1) SCT 353, of Delhi Court in the case of **Delhi Transport Corporation Vs. Delhi Administration** 2007 (1) S.C.T. 47, in support of his contentions.

Heard the arguments advanced by learned counsel for the parties and have also gone through the documents available on the file.

The category of the petitioners and the category of the post with which the petitioners are claiming parity in granting pay scale are two wings of the Department of Agriculture as the Agriculture Department of State of Punjab is divided into four wings, namely, Administrative Wing, Statistical Wing, Engineering Wing and Geology Wing. The petitioners were initially appointed as Junior Agriculture Engineers by way of direct recruitment in the Engineering Wing of the Department of Agriculture, Punjab. Said post of the petitioners was redesignated as Assistant Agriculture Engineer Grade-II. The petitioners are claiming parity with the candidates working initially on the post of Agriculture Inspectors but subsequently redesignated as

Agriculture Development Officers. As per case of the petitioners, their initial pay scale was ₹300-600 in the unrevised pay scale, whereas, the pay scale of Agriculture Development Officer was ₹250-450, which shows that the pay scale of the post of the petitioners was higher than the post of Agriculture Development Officer. Thereafter as per recommendations of the 2<sup>nd</sup> Punjab Pay Commission, both the posts were kept in the equivalent pay scale i.e. ₹700-1200 w.e.f. 1.1.1978. As per third Punjab Pay Commission report dated 1.9.1986, the petitioners were given pay scale of ₹1800-3200 as compared to pay scale of Agriculture Development Officer i.e. ₹1640-2925. Thereafter vide notification dated 22.1.1991, on redesignation, both the posts were kept in equivalent pay scale i.e. ₹2000-3500/-, meaning thereby, that the parity in both the pay scales was maintained.

Vide notifications dated 18.9.1992 and 8.11.1993, the pay scales of the post of Agricultural Development Officers of the Administrative Wing w.e.f. 1.1.1991 and of the petitioners w.e.f. 8.11.1993 were granted the equivalent revised pay scale i.e. ₹2200-4000 at the time of entry into service, pay scale of ₹3000-4500 after 8 years of service, pay scale of ₹3700-5300 after 18 years of service. It was mentioned in the remarks column of order dated 18.9.1992 that these pay scales were given “on the analogy of veterinary services”. It was also said that the abovesaid pay scales were granted after recognizing B.Sc Agriculture as a professional degree. The re-structuring of the administrative cadre officers was done on the basis of similar re-structuring in Health, Engineering and Veterinary Departments, who had already been declared as Officers of the Professional

Cadre. As a result, the Agriculture Development Officers/Horticulture Development Officers and other Administrative cadre Officers of Agriculture/Horticulture Departments were granted the pay scales equivalent to professional cadres working in the Health, Engineering and Animal Husbandry/Veterinary Departments.

It has also come in the arguments of learned counsel for the parties that both the categories were carrying same pay scale for long time. The petitioners are aggrieved by the action of the respondents while issuing modified notification dated 21.12.2011, which was made effective from 1.1.1996 instead of 1.12.2011. Due to said modification in the notification dated 21.12.2011, the anomaly had occurred between the pay scale of the petitioners and the Agriculture Development Officers.

It is well settled law that once the Government had decided to equate pay scales of certain posts with other posts then there should not be discrimination between the two posts on subsequent revision in the pay scales. Parity in pay scale should not be disturbed without any reasonable and justified reason. Undisputedly said two categories of posts were initially treated as equal but subsequently they were treated different but without any reason. No reasoning has come on record in any order or written statement and even in the arguments raised by learned State counsel. Non-treating both the posts at par on the basis of educational qualifications and nature of duties is permissible but in the present case both the posts were treated equal at the initial stage and it continued for long time period but to treat different subsequently without any cogent reason is not justified. Where

nature of duties are different or higher qualification is prescribed for a particular post, higher pay scale may be granted but if the basic qualification and the nature of duties are the same, higher revision in pay scale cannot be granted.

In the present case the only reason which has been pointed out in the written statement is of qualification and nature of duties, whereas, admittedly, there is no change either in the two parameters or no classification has been created for granting two different pay scales. Even in case of the candidates working in different departments like Health, Engineering and Animal Husbandary as well as Agriculture, parity in pay scales has been maintained. Even after re-structuring of the Agriculture Department on the basis of similar re-structuring in Health, Engineering and after considering the B.Sc Agriculture as a professional degree. Neither any change in the nature of duties nor any cogent reason has been pointed out. When certain posts have been equated for a long time, the onus lies on the respondent-Department to show as to why at a later stage different pay scales have been granted. No doubt the specialized agencies and the executive authorities have to determine the equation of posts with regard to pay scales but it has been held in various judgments of this Court as well as of Hon'ble the Apex Court that once the posts have been equated and that equation still existed then such posts must continue to have a parity of pay scales. No doubt equation can be ended in case there is any change in the nature of duties or function of the equated posts and in case any equation is to be discontinued that should be after proper application of mind and with

plausible reasons. In the present case, no such reason whatsoever has come on record or has been pointed out by learned counsel for the respondent-State. It is also a settled principle of law that parity once given cannot be withdrawn without assigning any justification or without pointing out disparity with reasons recorded. The parity in the pay scales in the present case has continued for years together but subsequently without any reason the same has been discontinued.

In view of the facts and law position as mentioned above, the present petition is allowed and respondents are directed to reconsider the case of the petitioners of equivalent revised pay scale with effect from the date the parity was discontinued. The respondents are also directed to fix the pay of the petitioners by considering the due date as on 1.1.1996 or from the date of joining, whichever is later. However, the petitioners will not be entitled for arrears in revision of pay scales but the benefit would be notional along with all consequential benefits.

27.11.2017  
pooja

**(DAYA CHAUDHARY)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

Yes  
No