

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

CWP-13158-2012 (O&M)

Date of decision: 23.3.2018

Kartar Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr.Gurminder Singh, Sr. Advocate with
Mr.JS Gil, Advocate for the petitioners

Ms.Sudeepti Sharma, Addl.AG, Punjab

JITENDRA CHAUHAN, J.

The present writ petition under Articles 226/227 of the Constitution of India has been filed for quashing of order dated 21.12.2011 (Annexure P7) and also for directing the respondents to grant pay scale Rs.14,300-18150 from 1.1.1996 revised as Rs.37,400- 67000 + GP Rs.8400, as has been granted to their juniors.

Learned Senior Counsel for the petitioners states that case of the petitioners is squarely covered by the judgment passed in CWP-25517 of 2012 filed “Dr.Ranjit Singh and others vs. State of Punjab and others” decided on 6.10.2017.

Learned State counsel also concedes the said factum.

Heard.

The petitioner Nos. 1 to 18 had been working as Agricultural

Officers, whereas, petitioner Nos. 19 to 21 had been working as Deputy Directors, Agricultural Officers/ Chief Agricultural Officers and their services were governed under Punjab Agricultural Service Class I Rules 1974.

In CWP- 25517 of 2012, it has been held as under:-

17. There is nothing in the Constitution or in any statutory rule that a junior cannot get a higher salary than a senior, particularly, when the junior has put in a larger number of years of service, as compared to the senior, who may be a new recruit. The question of a pay anomaly is a matter for consideration of an expert body and not within the domain of this Court. In any event, these are the matters to be decided by the Executive, and it is not proper for this Court to encroach upon in this field. The Courts must exercise judicial restraint and not interfere in such matters which are not within their domain. Orders for creation of posts, regularization, fixing pay scales etc. etc. are all executive or legislative functions and it is not within the domain of the Courts to regulate these functions except when it can be established that there is any violation of the rights of an individual or any administrative decision is taken which is wholly unconstitutional.

18. However, as far as this writ petition is concerned the situation is somewhat different. No doubt, there are judgments to the extent that seniors cannot claim parity or raise objection to the higher pay scale the junior is drawing on account of his longer length of service, but there is already a judicial precedent laid down in **Saravjit Singh's case (supra)** where a Division Bench of this Court has already gone into this question and has held that notification dated 18.09.1992 which allowed

for a higher pay scale on completion of 8/18 years of regular service in the entry scale is not sustainable. A similar situation has arisen under Notification No. 5/10/09-5FP1/1369 dated 21.12.2011 (Annexure P-10), wherein it has been specified that higher pay scale would be available on completion of 4/9/14 years of service in a scheme that replaced the earlier one to tackle stagnation in service. For the sake of judicial propriety, this Court is found bound to follow the ratio as laid down since it pertained to the same Department.

In view of the above, the present writ petition is allowed and order dated 21.12.2011 (Annexure P-7) is hereby set aside. The respondents are directed to re-fix the pay and other allowances of the petitioners and release the same within a period of three months from the date of receipt of certified copy of this judgment.

23.3.2018

gsv

(JITENDRA CHAUHAN)**JUDGE****Whether speaking / reasoned?****Yes / No****Whether reportable?****Yes / No**