

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

**CWP-19236-2013**

**Date of decision-10.10.2018**

**Tarvinder Kumar**

**....Petitioner**

**Vs.**

**State of Punjab and others**

**...Respondents**

**CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN**

Present: Mr. R.K.Arora, Advocate for the petitioner.

Ms. Monica Chhibber Sharma, Sr.DAG, Punjab.

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**JITENDRA CHAUHAN, J.**

This writ petition under Articles 226/227 of the Constitution of India has been filed seeking quashing of the part of the notification dated 23.12.2011 (Annexure P-4) whereby the petitioner has been denied grade pay of ₹5400/- whereas, the same had been allowed to those who had attained Bachelor Degree in engineering or Master Degree.

The brief facts of the case necessary for the disposal of this writ petition are that vide advertisement dated 28.12.1994 (Annexure P-1) and corrigendum dated 17.02.1995, applications were invited for filling up of 190 posts of Vocational Master/Mistress for different trades. The eligibility condition was degree in Engineering or three years diploma in Engineering along with three years experience in teaching or practical work in a Government/Government recognized institute of registered concern. The petitioner being diploma holder with three years experience and eligible for the post, applied for the same. The candidature of the petitioner was considered and he secured 68.23 marks as per the result declared on

29.12.1996 (Anenxure P-2). The petitioner was selected and appointed as Vocational Master (Electrical Engineering). Many other candidates possessing bachelor degree of Engineering were also appointed in the same pay scale. One candidate, namely, Kulwinder Singh holding bachelor degree of Engineering scored 58.58 marks was also selected in the same pay scale.

As per the recommendations of the 5<sup>th</sup> Punjab Pay Commission, pay scale of Vocational Master were revised to ₹10300-34800 with GP of ₹4200/- w.e.f.01.01.2006. Vide notification dated 23.12.2011 (Anenxure P-4), pay scales of Vocational Masters who have attained Bachelor Degree in Engineering or Master Degree were further revised to ₹10300-34800 with Grade Pay of ₹5400/- w.e.f.01.12.2011. The petitioner was denied this pay scale being a diploma holder.

Learned counsel for the petitioner contends that the impugned notification dated 23.12.2011 (Annexure P-4) is illegal. He contends that once the petitioner has been selected and appointed on the post of Vocational Master with minimum required qualifications, he fulfills all the qualifications required under the Rules and form one unified cadre or class. Therefore, he is entitled to the same scale as allowed to those candidates who have Bachelor Degree in Engineering. Further he states that there cannot be any discrimination between similarly situated persons as the process of selection as well as the nature of the job is same.

Learned counsel in support of his contention placed reliance on a judgment passed by Hon'ble the Supreme Court in Civil Appeal No.632-2008, titled as "*State of Punjab and others Vs. Senior Vocational Staff*

***Masters Association and others”, 2017 (4) SCT 119.***

Learned State counsel, on the other hand, has vehemently opposed the prayer made. It is submitted that the petitioner is matriculate with three years diploma in the relevant stream. Vide Annexure P-4, the Vocational Masters were conferred the designation of Vocational Lecturer and were given pay scale of ₹6400-10640/-. However, Vocational Masters, who did not have qualification of post graduation or degree in engineering like the petitioner were awarded pay scale of ₹5800-9200/- w.e.f.01.01.1996. It is further submitted that the similarly placed Vocational Masters filed CWP-10928-2003 and CWP-7527-1995 directing the respondents to give benefits of notification dated 31.03.1995 to all vocational masters recruited prior to 08.07.1995, irrespective of whether they hold the qualification of degree in engineering or ITI diploma. LPAs preferred by the State being LPA Nos.66-67 of 2006 were also dismissed by this Court vide judgment dated 23.05.2006 (Annexure R-1). The State preferred SLP before Hon'ble the Supreme Court wherein stay has been granted in favour of the petitioner-State. The said matter is still pending adjudication before the apex Court.

Heard.

Hon'ble the Supreme Court has considered somewhat similar issue in Senior Vocational Staff Masters Association's case (supra) as to whether the employees appointed in the common process of selection with qualification of Bachelor Degree in Engineering on the basis of common advertisement in the common pay scale and continued to draw same pay scale, performing same nature of duties, can be discriminated in the grant of

revised pay scale. The following conclusion has been drawn in para 19:-

*“19. In view of the foregoing discussion, we are of the considered opinion that the High Court was fully justified in declaring that the vocational masters are entitled to pay scale of L 6,400-10,640/- on the ground that the nature of duties being discharged by the vocational masters are the same as vocational lecturers and that there was no rationale behind making a classification between the two especially when both the categories were treated as one and the same in all the previous pay revisions since 1978 onwards. Vide notification dated 31.03.1995, only the nomenclature of vocational masters was changed without changing their nature of duties and pay scales. Further, the impugned order dated 16.07.2003 deserved to be quashed on the short ground that it has been passed without complying the rules of natural justice. The same could not have been passed without giving an opportunity of hearing to the concerned employees.*

The facts of the present case are similar. In the present case, the petitioner with qualification of Diploma with three years experience was appointed along with candidates possessing qualification of Bachelor Degree in Engineering without experience. Both were treated at par and appointed in the common pay scale of ₹1800-3200. Now, in the revision of pay scale, the artificial distinction has been created between the two despite there was no change in the duties and responsibilities. The resultant effect is that junior to the petitioner in the same cadre performing similar duties appointed with lesser merit and placed below the petitioner in the seniority list have started

getting more pay. Hon'ble the Supreme Court in the aforementioned judgment relating to the Vocational Masters held that there cannot be any discrimination between similarly situated persons either by way of Government notification or by any amendment in the Rules. In the present case also, the lesser pay scale has been given to the Vocational Masters with qualification of Diploma with three years experience without applying the Rules of natural justice. The State has given some economic benefit to one class while denied the same to the other without any justification when both of them were treated as same at the time of their selection/appointment and both were placed in the same seniority list and were treated as same from the date of their initial appointments.

In view of the above, the present writ petition is allowed and the notification dated 23.12.2011 (Annexure P-4) is hereby set aside. The respondents are directed to release the same pay scale to the petitioner as allowed to the other Vocational Masters with qualification of Bachelor Degree in Engineering in the notification dated 23.12.2011 (Annexure P-4) with all consequential benefits. The needful be done within a period of two months from the date of receipt of copy of the order.

**(JITENDRA CHAUHAN)**  
**JUDGE**

**10.10.2018**

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| Whether speaking/reasoned : | Yes | No |
| Whether Reportable :        | Yes | No |