

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

CWP-16610-2015

Date of Decision: May 24, 2018

Reserved on May 11, 2018

Devinder Kaur and others

.....Petitioner(s)

versus

Panjab University and another

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE SUDHIR MITTAL

Present: Mr. G.S. Bal, Senior Advocate
for the petitioners.

Mr. Harit Sharma, Advocate
for the respondents.

Sudhir Mittal, J. (Oral)

The petitioners were appointed as Clerks pursuant to Advertisement No.17/80. They were confirmed against the said post. Their pre-revised pay scales were Rs.400-600 (Time Scale) and Rs.510-800 (Senior Scale) in the ratio of 50:50. Thus, out of total strength of Clerks, 50 % in accordance with the seniority were drawing Senior Scale pay of Rs.510-800, whereas the lower 50% were drawing pay in the scale of Rs.400-600. With effect from 01.01.1986, the Punjab Government introduced new pay scales and the same were made applicable to the employees of respondents-University, vide order dated 10.07.1990. According to the revised pay scales, 3 tiers were introduced instead of the earlier 2 tiers. The top 40% in order of seniority were granted the pay scale of Rs.1500-2640. The

next 40% were granted Rs.1200-2100 and the last 20% were granted the pay scale of Rs.950-1500 with initial start of Rs.1000/-.

2. The grievance of the petitioners is that their juniors have been granted higher pay scales.

3. Persons similarly situated as the petitioners approached this Court earlier though **CWP No.12017 of 1996** and the same came to be decided vide judgment dated 22.12.2014 (Annexure P-5). The petitioners therein were held entitled to the higher pay scale and the arrears were to be released within four months along with interest @ 7% per annum

4. The petitioners herein claim the same relief.

5. The respondent-University has filed its written statement contesting the claim of the petitioners. The facts are not disputed but the relief claimed has objected to, on the ground of delay and laches. According to the respondents, similarly situated persons approached this Court in the year 1996, whereas the petitioners have filed the present writ petition in the year 2015 and therefore, according to them, the claim has become stale. Reliance has been placed upon judgment of Hon'ble the Supreme Court of India in case of **New Delhi Municipal Council Vs. Pan Singh and Ors. 2007(2) S.C.T.601.**

6. Thus, the issue to be decided is whether the claim of the petitioners is barred by the principle of delay and laches?

7. A perusal of the record shows that one of the petitioners had moved a representation dated 07.02.2006 through proper channels, regarding the correction of pay anomaly. This was replied to vide the Memo dated 20.07.2006 wherein it was stated that the Registrar had directed to keep the case pending till the decision of the High Court on a writ petition filed by similarly situated employees. The writ petition referred to in the said Memo was **CWP 12017 of 1996 (O&M)**. Thus,

as in the year 2006, the case of the petitioners was under active consideration and the decision was to be taken after the verdict of this Court in the writ petition (supra). The said verdict was delivered on 22.12.2014 and immediately, thereafter a representation dated 22.01.2015 was submitted, followed by a legal notice dated 25.05.2015.

8. Since the requisite relief was not granted, the petitioners were forced to approach this Court by way the present writ petition. Under the circumstances, it cannot be held that the claim of the petitioners had become stale or was barred by the principle of delay and laches

9. The judgment in New Delhi Municipal Council's case supra, is not attracted to the facts of this case, as the benefits claimed by the petitioners therein were held to be restricted to workmen appointed before 12.02.1982. The petitioners in the said case had been appointed after the said date and thus, Hon'ble the Supreme Court of India invoked the principle of delay and laches to deny relief.

10. In view of the above, the writ petition is allowed and it is directed that the petitioners be granted the higher pay scale as has been given to their juniors with effect from the date the anomaly was created alongwith all consequential benefits including promotion on time scale. The needful be done within a period of three months from the date of receipt of certified copy of this judgment but arrears shall be restricted to a period of three years and two months prior to the date of filing of this writ petition.

May 24, 2018

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[SUDHIR MITTAL]

JUDGE

Whether speaking/reasoned :	Yes
Whether Reportable :	Yes