

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

**CWP-23989-2014 (O&M)
Date of decision : 30.11.2018**

Bharti Kannedy

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Rajiv Joshi, Advocate,
for the petitioner(s).

Ms. Bhavna Gupta, DAG, Punjab.

JITENDRA CHAUHAN, J.

The petitioner, *inter alia*, seeks issuance of a direction to the respondents to pay salary to the petitioner at par with two similarly situated non-official members of the respondent-Commission.

It is contended that the petitioner was appointed as non-official member of the respondent-Commission vide order of appointment dated 12.10.2011 (Annexure P-1). The salary and allowances were fixed by order dated 27.07.2012 (Annexure P-2). The petitioner joined her services as such on 02.12.2011 (Annexure P-3).

The grouse of the petitioner is that she has been getting lesser salary as compared to the other non-official members of the Commission who are similarly placed.

On the other hand, learned State counsel submits that the terms and conditions of the appointment of the petitioner have been fixed as per

the policy of the State Government, as advised by the Finance Department vide letter dated 22.11.2012 (Annexure R-1). The salary of two other non-official members of the commission had been fixed vide order dated 15.12.2008 (Annexure P-5) i.e. much prior to the joining of the petitioner. The petitioner had agreed to the terms and conditions of the appointment and therefore, she cannot agitate the same at this belated stage.

Heard.

As per Section 3 of the Punjab State Commission for Scheduled Castes Act, 2004, the respondent-Commission was constituted comprising of a Chairperson and non-official members. The salary and allowances were to be fixed by framing Rules in terms of Sub-section 5(2) of Section 4 of the Act. However, no rules were ever framed by the State laying down the service conditions, including pay and allowances.

The petitioner has alleged discrimination on the ground that two other non-official members of the Commission were being given higher salary than the petitioner without there being any cogent reason. As per additional affidavit dated 13.02.2017 filed on behalf of the respondent-State, it has been stated that w.e.f. 28.10.2016, the members have been paid a uniform salary of ₹50,000/- per month.

Further, in terms of order dated 23.03.2018, affidavit of Principal Secretary, Department of Welfare of Scheduled Castes, Backward Classes and Minorities has been filed on behalf of respondent Nos.1, 2 and 3. As per the affidavit, two non-official members, namely, Sh. Parkash Singh Gardhiwala and Sh. Daleep Singh Pandhi, who served along with the petitioner, were getting higher salary than the petitioner. No explanation

has come forth in this regard except that the salary was being paid to the members as per the advice of the Finance Department.

In view of the above discussion, this Court feels that the petitioner has been subjected to discrimination and has been paid lesser salary as compared to other non-official members of the Commission who served along with her. Accordingly, the instant petition is allowed; and the respondents are directed to re-fix the salary of the petitioner at par with the two non-official members referred to hereinabove for the period they served along with the petitioner. The necessary exercise be completed and arrears be paid to the petitioner within a period of two months from the date of receipt of a certified copy of this judgment.

Allowed.

30.11.2018
atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No