

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

**CWP No. 28742 of 2013.
Date of Decision: 10.12.2018**

Karamjit Singh and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present:- Mr. Sumeet Mahajan, Sr. Advocate with
Ms. Ramneeq Kaur, Advocate,
for the petitioners.

Ms. Bhawna Gupta, DAG, Punjab.

JITENDRA CHAUHAN J.

The petitioners, *inter-alia*, seek issuance of a writ in the nature of mandamus directing the respondents to grant them the grade pay of Rs.4800/- instead of Rs.4200/-.

The petitioners are working as Draftsmen. The post of Draftsman is a promotional post from Junior Draftsman. The basic qualification for appointment on promotion to the post of Draftsman is Matriculation plus two years certificate in Draftsman Course from Industrial Training Institute with one year apprenticeship. It is only after a person puts in service of 10 to 20 years that he gets a chance of being promoted as Draftsman.

About 75% posts of Junior Engineer in various departments in State of Punjab are filled by way of direct recruitment with a qualification of Matriculation plus three years Diploma Course from a Polytechnic.

Historically, there has been parity of scales of pay between Draftsmen and Junior Engineers. The 3rd pay commission, the 4th pay commission and the 5th pay commission have always recommended same scales of pay for Draftsmen and Junior Engineers. The 5th pay commission had recommended pay scale of Rs.10300-34800 plus grade pay of Rs.3800/- for both the posts in question. However, on 01.12.2011 while the grade pay of Junior Engineers was increased to Rs.4800/-, the grade pay of the petitioners was increased to Rs.4200/-.

It is contended that when the pay scale of one category is revised then propriety and fairness demands that the pay scale of the other category is also revised. Since 1965 the Junior Engineers and Draftsmen have been receiving the same scale of pay and allowances. The Draftsmen are better qualified as they are appointed on promotion after having gained valuable and long experience of 10 to 20 years or more working as Junior Draftsmen. Therefore, they are entitled to receive even higher pay scale/grade pay than the one admissible to Junior Engineers. It is further contended that the duties performed by the petitioners are more onerous than those being performed by the Junior Engineers. The Draftsmen perform their duties in the Divisional Office, the basic nature of which is to evaluate the project prepared by the Junior Engineer/Sub Divisional Officers.

On the other hand, the stand of the respondents is that the the fixation of pay is exclusively within the domain of the state policy and function of the expert body like Pay Commission. Equation of pay

cannot itself be made the basis by comparing with the other posts whose qualifications, experience and nature of duties are totally different.

Heard.

This Court in CWP No. 7920 of 2013 titled as “Manmohan Singh and others vs. State of Punjab and others” decided on 01.02.2018 has held as under:-

“A bare perusal of the afore-stated chart reveals that the drivers were initially drawing pay scale of 400-600 in the year 1978 and in the year 1986 their pay scale was at a higher pedestal than the Patwaris. Similar was the position in the year 1996 as also in 2006. However, the recommendations made by the Pay Commission in 2011 brought about anomaly in the pay scales to be granted to the drivers. Intriguingly, Patwaris, who were drawing lower pay scale were granted pay scale of Rs.10,300-34,800/- plus grade pay of Rs.3200/- as against the drivers (petitioners) who were not granted the revised pay scale in 2011. This anomaly has to be redressed. Admittedly, the petitioners being drivers are performing arduous duties but have been drawing lesser pay than the Patwaris. The changed pay scales adverse to the petitioners are not justifiable in the background explained above. They are legally entitled for the pay scale of Rs.10,300-34,800/- plus grade pay of Rs.3200/- as is being drawn by the Patwaris. The State being a model employer cannot act arbitrarily and in a discriminatory manner to the prejudice of one class of its employees. From the

inception till date, the nature of job has substantially remained unchanged. This fact itself is suggestive of the fact that the deviation in the original pattern of pay scale is not substantiated by any logic nor any material in support of the fact that both the cadres have undergone any change has been brought on record by the State. Therefore, it is inherently illogical to discriminate against one set of employees of the State as against their counterparts who were at the same footing at the time of inception of the process.

In the present case, the petitioners were drawing pay scale of Rs.5800-9200 before 5th pay commission and after 5th pay Commission they were drawing Rs.10300-34800 plus grade pay of Rs.3800/- which was at par with the pay of Junior Engineers. However, the revision made by the State Government with effect from 01.12.2011 caused an anomaly as the grade pay of the petitioners was increased to Rs.4200/- whereas, the grade pay of the Junior Engineers was revised to Rs.4800/-. The anomaly has to be redressed. The State being a model employer cannot act arbitrarily and in a discriminatory manner to the prejudice of one class of its employees. From the inception till date, the nature of job has substantially remained unchanged. This fact itself is suggestive of the fact that the deviation in the original pattern of pay scale is not substantiated by any logic nor any material in support of the fact that both the cadres have undergone any change has been brought on record by the State.

In view of above, the present writ petition is allowed.

The petitioners are held entitled to the revised pay scale of Rs.10,300-34,800/- plus grade pay of Rs.4800/-. The State is directed to fix the pay of the petitioners accordingly within a period of three months from the date of receipt of certified copy of this judgment. However, the petitioners are held entitled to arrears of pay upto 38 months in view of the judgment rendered in *Saroj Kumari vs. State of Punjab CWP No. 14874 of 1995 decided on 04.05.1998.* The arrears of the pay etc. be also released in their favour within three months thereafter.

10.12.2018.

SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No