

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

CWP No. 2983 of 2015.

Date of Decision: 21.11.2018.

Rajinder Parshad and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Vipin Mahajan, Advocate,
for the petitioners.

Ms. Ambika Bedi, AAG, Punjab.

JITENDRA CHAUHAN.J.

Through the instant civil writ petition, the petitioners seek quashing of order dated 04.07.2012 (Annexure P-11) passed by respondent No.4, vide which claim of the petitioners for fixation of pay at par with their juniors has been rejected.

The facts of the case are that the petitioners were initially inducted into service of Police Department as Constables. Thereafter, they were promoted to the post of Head Constable and Assistant Sub Inspectors. One Joginder Pal was appointed as Constable on 28.08.1981 and was promoted as Head Constable on 12.07.1990 and further promoted as Assistant Sub Inspector on 20.07.2009. The said Joginder Pal was junior to the petitioners in the rank of Constable, Head Constable and Assistant Sub Inspector. However, the pay of said Joginder Pal has been fixed higher than the pay of the petitioners. He was drawing basic pay of Rs.20,210/- as on October, 2011 whereas,

the pay of the petitioners was Rs.19,270/- which is lesser than the pay of said Joginder Pal. Likewise, another junior of the petitioners, namely, Baldev Raj, Assistant Sub Inspector who was appointed as Constable on 23.09.1982 and was promoted as Head Constable on 01.11.1987 and Assistant Sub Inspector on 08.12.2006. The pay scale of said Assistant Sub Inspector Baldev Raj remained at par with the petitioners but in the year 2007, his pay was stepped up to Rs.17,310/- as on 01.09.2007 whereas, the petitioners had been drawing pay of Rs.17,080/- at the relevant time. This anomaly in pay scale has been continuously operating against petitioners till date.

On the other hand, the stand of the respondents is that said ASI Joginder Pal and ASI Baldev Raj have been drawing pay higher to the petitioners as a result of their pay fixation after granting them increments under the Assured Career Progression Scheme on completion of 4/9/14 years of service in the rank of Head Constable. The case of the petitioners is not at par with them.

Heard.

The factum of the petitioners being senior to said ASI Joginder Singh and ASI Baldev Raj has not been denied. It has also not been denied that they are getting more pay than the petitioners. In **Union of India vs. P. Jagdish, 1997 (2) SCT 664 (SC)** it was held that when a government servant is promoted or appointed, the principle of stepping up should be done. The pay of the senior officer is required to be stepped up to a figure equivalent to the pay as fixed

for the junior.

Further in Ishwar Chand Walia vs. State of Haryana and others 2001(2) SCT 809, it was observed as under:-

“When the petitioner is drawing less salary than his juniors, then there must have been some cogent reasons. No such cogent reasons are forthcoming.

When the petitioner is getting less salary than his juniors, necessarily he would be entitled to step up of the salary.

In view of the dictum of law laid down in Union of India vs. P. Jagdish's case and Ishwar Chand Walia's cases (supra), the petitioners' pay deserves to be stepped up at par with their juniors ASI Joginder Pal and ASI Baldev Raj. Consequently, the present civil writ petition is allowed. The impugned order dated 04.07.2012 (Annexure P-11) is set aside. The respondents are directed to fix the pay of the petitioners at par with said ASI Joginder Pal and ASI Baldev Raj. The necessary exercise be done within a period of two months from the date of receipt of certified copy of the judgment. However, the arrears are restricted to 38 months in view of the law laid down in Saroj Kumari vs. State of Punjab CWP No. 14874 of 1995. decided on 04.05.1998.

21.11.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

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