

212 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 9318 of 2013 (O&M)

Date of Decision: 03.12.2018.

Kuldeep Singh and another

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM : **Hon'ble Mr. Justice Jitendra Chauhan**

Present : Mr. P.K. Goklaney, Advocate,
 for the petitioners.

Mr. Vikas Mohan Gupta, Addl. AG Punjab.

JITENDRA CHAUHAN.J.

The claim of the petitioners is to grant them the revised pay scales as per recommendations made by various Pay Commissions with regard to skilled and semi-skilled staff in the service of Punjab Government.

It is submitted that keeping in view the large varieties of posts such as Blacksmith, Carpenters, Mechanics, Electricians, Fitters, Masons, Machineman, Plumbers, Turners etc., in the year 1968, the Pay Commission thought it expedient that these posts be categorized by linking their pay scales to academic and technical qualifications. The object of doing so was to end the multiplicity of pay scales. In view of the recommendations of the Pay Commission, the Government issued a letter dated 04.02.1969 (Annexure P-3)

categorizing the Technicians into Category I to VI. Since the letter was not implemented by the Department of Water Supply & Sanitation, as such a few employees of the Department filed **CWP No. 10759 of 1990 titled as “Rajinder Paul Gautam and others vs. State of Punjab and others”** wherein order dated 30.05.2008 was passed with following directions:-

“When the facts of the present case are examined in the light of the principles laid down by Hon'ble the Supreme Court it becomes evident that the category of Pump Operators cannot be picked up for hostile discrimination when all other categories with qualification of matriculation and ITI have been granted the pay scale of Rs.140-300. Accordingly the afore-mentioned pay scale of Rs.140-300 deserves to be granted to the petitioners provided they have qualification of two years diploma of ITI with matriculation.

In view of the above, the writ petition is allowed. The petitioners who have qualifications of ITI of two years diploma course with matriculation and have been working on the post of Pump Operators are held entitled to the pay scale of Rs.140-300 w.e.f. the date they have joined the service. Their pay shall be fixed in the scale of Rs.140-300 from the aforementioned date but the arrears would be restricted to a period of 38 months preceding the date of filing of the petition which has been filed on 8.8.1990. We make it clear that those petitioners who do not possess the qualification of two years ITI diploma course and matriculation would not be entitled to the afore-mentioned relief.”

Against the above said judgment, the Government of Punjab filed LPA No.44 of 2009 which was dismissed on 15.02.2010 with the directions that the State may pass appropriate order for grant

of corresponding scales from the date of judgment, within one month without arrears. The relevant observation/directions contained in paragraph Nos.6 to 10 are reproduced as under:-

6. *Learned counsel for the respondent-writ petitioners supported the impugned judgment. However, after taking instructions from his clients, who were present in Court, learned counsel for the writ petitions stated that he does not press for the arrears and he has no objection if the pay scale is granted to the petitioners for future.*

7. *The question for consideration is whether on the basis of material on record writ petitioners have a right to the pay scale in question. Answer has to be in the affirmative for the reasons that follow.*

8. *It is not disputed that recommendations were made in the year 1967-68 i.e. more than 40 years ago. There is no reason for the State not to have taken any decision in the*

matter while granting the scale in question to similarly placed persons in categories other than Pump Operators. As per recommendations, Annexure P-206 dated 30.05.2003, the Chief Engineer also recommended acceptance of claim of the petitioners.

9. *In such circumstances, objection that recommendation of Pay Commission cannot be per se acted upon or that Court cannot go into the question of equation of pay, cannot be upheld. Recommendation of the Commission has been accepted by the State for other categories without holding that Pump Operators were a different class. Plea of financial implications is taken care of by statement of learned counsel for the petitioners not to press for arrears. The claim of the writ petitioners for scale corresponding to the scale of Rs.140-300, is thus, clearly made out. Since claim for arrears*

has been given up and is also held to be otherwise unacceptable, the State is liable to be directed to pass appropriate orders effective from today. The impugned judgment will stand modified accordingly. The State may pass appropriate orders for grant of corresponding scale from today, within one month from the date of receipt of a copy of this order.

10. The appeal is disposed of accordingly.”

The State of Punjab filed SLP No. 15225 of 2010 which was also dismissed on 12.07.2010. Thereafter, on the basis of said judgment, the State of Punjab, Department of Water Supply and Sanitation vide decision dated 30.06.2011 (Annexure P-6) took a general decision to grant similar corresponding higher pay scale of Rs.140-300 to all those employees who possess qualification of matriculation with two years I.T.I. diploma.

After the above said decision, the petitioners filed representation dated 03.08.2011 (Annexure P-2) to the department for the grant of corresponding scale as granted to similarly situated employees and on the basis of recommendation, letter dated 22.09.2011 (Annexure P-8) was issued by the Department of Punjab for seeking clarification to implement the pay scale of Rs.140-300 to the petitioners in view of the meeting held on 24.05.2011. In response to the letter dated 22.09.2011, the Superintending Engineer, Water Supply and Sanitation Circle, Ludhiana vide letter dated 12.10.2011 (Annexure P-9) informed that the employees who are having qualification of

Matriculation plus two years ITI diploma to their credit, are entitled for the release of pay scale of Rs.140-300. However, the respondent-department refused to release the same to the petitioners vide letter dated 21.01.2013 (Annexure P-10).

Learned counsel for the petitioners has contended that the case of the petitioners is fully covered by the ratio of law laid down in **Rajinder Paul Gautam's case (supra)** as the benefit of corresponding scales has already been granted to all similarly situated employees.

On the other hand, it is contended by the learned State counsel that the judgment of **Rajinder Paul Gautam's case (supra)** relates to the employees who had joined the department from 1967 to 1980 and as such the petitioners are not entitled to the scale.

Heard.

It is not disputed that the judgment of **Rajinder Paul Gautam's case(supra)** has attained finality and the same stands implemented by the Department of Water Supply & Sanitation, Punjab. Even it has generalized the matter in the meeting held under the chairmanship of Chief Secretary, Punjab on 30.06.2011 (Annexure P-6) and has extended the benefit of judgment to all the employees, even to the non-petitioners and further the benefit has been also extended to the employees who were regularised recently by the Government and their pay has been fixed according to their qualification from the date

of their appointment.

So far the argument raised by the learned State counsel that the judgment of *Rajinder Paul Gautam's case(supra)* applies only to employees appointed from 1967 to 1980, is misconceived on the ground that the Department of Water Supply & Sanitation, Punjab and Department of Local Government, Punjab have generalized the matter and the benefit has been extended to all the employees, even to the non-petitioners as well as to the employees whose services have been regularised recently by the Government, even otherwise, this condition has also been withdrawn by the Government in its letter dated 31.03.2011 (which is taken on record as Mark-A). The identical issue stands settled in CWP No. 7001 of 2013 titled as Daljeet Singh and others vs. State of Punjab and others decided on 26.04.2018

Accordingly, the writ petition is allowed in terms of *Rajinder Paul Gautam's case (supra)* and the arrears be paid to the petitioners in the same terms as paid in *Rajinder Paul Gautam's case(supra)*. The needful be done within a period of three months from the date of receipt of copy of this judgment.

03.12.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

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