

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

**CWP-20269-2014(O&M)
Date of decision-05.04.2019**

S.K. Mishra and others

...Petitioners

Vs.

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. J.R. Syal, Advocate,
for the petitioners.

Mr. Navdeep Chhabra, D.A.G., Punjab.

JITENDRA CHAUHAN, J.

This writ petition under Articles 226/227 of the Constitution of India has been filed for the issuance of a writ, in the nature of mandamus to fix the pay scale of the petitioners in the pay scale of Rs.3700-5300 from 01.01.1991 revised as Rs.12000-16350 from 01.01.1996 without applying the three tier system on completion of 8/18 years and 8/16 years respectively as the above mentioned pay scale has been granted to the Officers of the Administrative Wing, Statistical Wing and Engineering Wing of the Agriculture Department Punjab who have been given the above mentioned pay scales irrespective of the length of their service as P.A.S. Class II by Punjab Government Orders dated 19.02.2009 (Annexure P-8).

The petitioners were appointed as Assistant Agricultural Engineers in Punjab Agriculture Service Class II in the Engineering Wing

and are governed by Punjab Agricultural Service (Class II) Rules, 1974 (herein after to be referred as 'the Rules') (Annexure P-1). The Agricultural Department of the Punjab State is divided into four wings, namely, Administrative Wing, Statistical Wing, Engineering Wing and Geological Wing. As per Rule 9 of the Rules, officers of all categories shall be eligible for promotion with their respective categories of service and further in matters of pay, the members of the Service are to be governed by such rules and regulations as are made by the competent authority from time to time. Since 1968, the pay scales of the Engineering posts have been higher than that of the Statistical Wing and Administrative Wing posts which are in the same hierarchy. From 01.01.1986 onwards, all the Class II Officers of the Administrative Wing, Statistical Wing and Engineering Wing were placed in the pay scale of 2100-3700 whereas the equivalent and Geological Wing Class II Officers were given the pay scale of Rs. 2200-4000. Vide letter dated 18.09.1992 (Annexure P-2), the pay scales of the Class II Officer of the Administrative Wing were revised from 01.01.1991, which reads as under:-

- (a) Pay scale at the time of entry into service-Rs. 2200-4000.
- (b) Pay scale after the completion of 8 years of service Rs.3000-4500.
- (c) Pay scale after the completion of 18 years of service Rs.3700-5300

The same pay scales were given to the PAS Class II officers of the Engineering Wing appointed as Assistant Agricultural Engineers Implements/Tubewell/Boring vide Endst. No. Punjab Govt. Endst dated 05.01.1993 (Annexure P-3).

Thereafter, the Punjab Government abolished the condition of the completion of 8/18 years of service for the PAS Class II Administrative

Wing vide Punjab Govt. orders dated 21.04.1997 (Annexure P-4) which was read with Punjab Govt. orders dated 20.03.1998 (Annexure P-5). All the PAS Class II Officers of the Administrative Wing were then placed in the pay scale of Rs. 3700-5300 from 01.01.1991 irrespective of the length of their service. By a subsequent notification issued by the State Government w.e.f 01.01.1996, the pay scale of Rs. 3700-5300 has been further revised to Rs. 12000-16350 and consequently the PAS Class II Officers of the Administrative Wing with designation such as Agricultural Officers were placed in the pay scale of Rs.12000-16350 from 01.01.1996 or from the date of their joining whichever is later and that the condition of the completion of 8/16 (changed from 8/18 years) of service from 01.01.1996, for the grant of higher pay scale of Rs. 12000-16350 already stood abolished. However, for the petitioners, the condition of 8/16 years of service continued to exist, for the grant of this revised higher pay scale of Rs. 12000- 16350 from 01.01.1996

Learned counsel for the petitioner has referred to CWP No. 5290 of 1996 decided on 07.01.1997 filed by the affected PAS Class II Statistical Wing Officers and the judgment passed therein was upheld by Hon'ble the Supreme Court in SLP filed by the State.

In compliance of this judgment, Punjab Government passed another order dated 27.03.1998 (Annexure P-7) vide which the pay scales of the Class II Officer of the Statistical Wing were revised from Rs. 2100-3700 to the following pay scales from 01.01.1991, which reads as under:-

- (a) Pay scale at the time of entry into service-Rs. 2200-4000.
- (b) Pay scale after the completion of 8 years of service Rs.3000-4500
- (c) Pay scale after the completion of 18 years of service Rs.3700-5300

Finally, the Punjab Government agreed to correct their earlier wrong caused vide orders dated 27.03.1998 and therefore, vide orders dated 19.02.2009 (Annexure P-8) abolished the condition of the completion of 8/18 years of service for the PAS Class II Statistical Wing and granted them the higher pay scales. The grant of this benefit was given only to the officers of Statistical Wing and that too after filing the contempt petition. The State Government persisted with disparity with regard to the pay scales of the petitioners who were Class II Officers from the Engineering Wing and holding posts equivalent to the PAS Class II Officers of the Administrative Wing and Statistical Wing which were revised by the Punjab Government vide Endst dated 05.01.1993.

Learned counsel for the petitioners has argued that the petitioners are drawn from the Administrative Wing, Statistical Wing and Engineering Wing, the condition of completion of 8/18 years of service has been retained in their respect while fixing their pay scale of Rs. 3700-5300 vide letter dated 05.01.1993 (Annexure P3) and further the condition of 8/16 years of service that has been retained as on 01.01.1996 for the grant of revised pay scale of Rs. 12000-16350 is an arbitrary act of the Punjab Government amounting to discrimination among three equivalents and needs to be set aside.

The disparity was generated by the Government vide Annexure P-4 whereby the condition of 8/18 year of service was abolished for the Administrative Wing, irrespective of their length of service and they were placed in the scales admissible to their juniors w.e.f 18.09.1992. The petitioners as per Annexure P-3 were required to complete 18 years of service to get the pay scale of Rs. 3700-5300 whereas Class II Officers

working in the Administrative Wing were placed in that scale right from 01.01.1991. The condition of completing 8/18 years of service was abolished in the case of Class II Officers of Administrative Wing. Similar benefit has been granted to the Officers of the Statistical Wing, vide Annexure P-7.

Learned counsel for the respondent has tried to support the action of the department on the ground that in the Agriculture Department, there are four separate wings and they all are getting the grades admissible to them as per Government notifications. He has further submitted that the nature of duties, qualifications and method of recruitment of officers of each wing are different. Similarly the seniority of each wing is separate. The officers of each wing are eligible for promotion within their respective category of service and thus, they are not entitled to the same pay scale.

Heard.

A similar controversy came up for determination before this Court in ***CWP No.16618 of 2009*** titled as '***Bhagwant Singh and others Vs. State of Punjab***' decided on 28.07.2011, wherein similar relief was sought by the employees of the Engineering Wing. While deciding the issue in favour of the petitioners therein, this Court laid down as under:-

“The instant petition under Articles 226/227 of the Constitution of India for the issuance of a writ of mandamus to fix the pay scale of the petitioners in the pay scale of Rs. 3700-5300 from 01.01.1991 revised as 12000- 16350 from 01.01.1996 without applying the three tier system of the completion of 8/18 years and 8/16 years respectively as the same above mentioned pay scale has been granted to the Officers of the Administrative Wing and Statistical Wing of the Agriculture Department Punjab who have been given the above mentioned pay scales irrespective of the length of their

service as P.A.S. Class II by Punjab Govt. orders dated 19.02.2009

The petitioners were appointed as Assistant Agricultural Engineers in Punjab Agriculture Service Class II in the Engineering Wing and are governed by Punjab Agricultural Service (Class II) Rules, 1974 (herein after to be referred as 'the Rules') (Annexure P-1). The Agricultural Department of the Punjab State is divided into four wings namely Administrative Wing, Statistical Wing, Engineering Wing and Geological Wing. As per Rule 9 of the Rules, officers of all categories shall be eligible for promotion with their respective categories of service and further in matters of pay, the members of the Service are to be governed by such rules and regulations as are made by the competent authority from time to time. Since 1968, the pay scales of the Engineering posts are higher than the Statistical Wing and Administrative Wing posts which are in the same hierarchy. From 01.01.986 onwards, all the Class II Officers of the Administrative Wing and Statistical Wing were placed in the pay scale of 2100-3700 whereas the equivalent Engineering Wing and Geological Wing Class II Officers were given the pay scale of Rs. 2200-4000. This position remained in vogue upto 01.01.1991. Vide letter dated 18.09.1992, the pay scales of the Class II Officer of the Administrative Wing were revised from 01.01.1991, which reads as under:-

- (a) Pay scale at the time of entry into service-Rs. 2200-4000.*
- (b) Pay scale after the completion of 8 years of service Rs.3000-4500.*
- (c) Pay scale after the completion of 18 years of service Rs. 3700-5300.*

The same pay scales were given to the PAS Class II officers of the Engineering Wing appointed as Assistant Agricultural Engineers Implements/Tubewell/Boring vide Endst. No. Punjab Govt.Endst dated 05.01.1993 (Annexure P-3).

Thereafter, the Punjab Government abolished the condition of the completion of 8/18 years of service for the PAS Class II Administrative Wing vide Punjab Govt. orders dated 21.04.1997 (Annexure P-4). This read with Punjab Govt. orders dated 20.03.1998 (Annexure P-5). All the PAS

Class II Officers of the Administrative Wing were then placed in the pay scale of Rs. 3700-5300 from 01.01.1991 irrespective of the length of their service. By a subsequent notification issued by the State Government w.e.f 01.01.1996, the pay scale of Rs. 3700-5300 has been further revised to Rs. 12000-16350 and consequently the PAS Class II Officers of the Administrative Wing with designation such as Agricultural Officers were placed in the pay scale of Rs.12000-16350 from 01.01.1996 or from the date of their joining whichever is later and that the condition of the completion of 8/16 (changed from 8/18 years) of service from 01.01.1996, for the grant of higher pay scale of Rs. 12000-16350 already stood abolished. However, for the petitioners, the condition of 8/16 years of service continued to exist, for the grant of this revised higher pay scale of Rs. 12000- 16350 from 01.01.1996.

Learned counsel for the petitioner has referred to CWP No. 5290 of 1996 decided on 07.01.1997 filed by the affected PAS Class II Statistical Wing Officers and was decided in their favour and was upheld till the Hon'ble Supreme Court.

In compliance of this judgment, Punjab Government passed another order dated 27.03.1998 vide which the pay scales of the Class II Officer of the Statistical Wing were revised from Rs. 2100-3700 to the following pay scales from 01.01.1991, which reads as under:-

- (a) Pay scale at the time of entry into service-Rs. 2200-4000.*
- (b) Pay scale after the completion of 8 years of service Rs.3000-4500.*
- (c) Pay scale after the completion of 18 years of service Rs. 3700-5300*

Finally, the Punjab Government has agreed to correct their earlier wrong caused vide orders dated 27.03.1998 and therefore, vide orders dated 19.02.2009 abolished the condition of the completion of 8/18 years of service for the PAS Class II Statistical Wing and granted them the higher pay scales. The grant of this benefit was given only to the officers of Statistical Wing and to under the threat of contempt. The State Government persisted with disparity in regard to the pay scales of the petitioners who were Class II Officers from the Engineering Wing and holding posts equivalent to the PAS Class II Officers of the Administrative

Wing and Statistical Wing which were revised by the Punjab Government vide Endst dated 05.01.1993.

Learned counsel for the petitioners has argued that the petitioners belonging to the Administrative Wing/Statistical Wing, the condition of completion of 8/18 years of service has been retained in their respect while fixing their pay scale of Rs. 3700-5300 vide letter dated 05.01.1993 (Annexure P3) and further the condition of 8/16 years of service has been retained as on 01.01.1996 for the grant of revised pay scale of Rs. 12000-16350 is an arbitrary act of the Punjab Government amounting to discrimination among three equivalents and needs to be set aside.

The disparity was granted by the Punjab Government vide Annexure P-4 whereby the condition of 8/18 year so service was abolished for the Administrative Wing, irrespective of their length of service ,they were placed in the scales admissible to the junior w.e.f 18.09.1992. The petitioners as per Annexure P-3 were required to complete 18yeaars of service to get the pay scale of Rs. 3700-5300 whereas Class II Officers working in the AdministrativeWing were placed in that scale right from 01.01.1991. The condition of completing 8/18 years of service was abolished in the case of Class II Officers of Administrative Wing. Similar benefit has been granted to the Officers of the Statistical Wing, vide Annexure P-7.

Learned counsel for the respondent has tried to support the action of the department on the ground that in the Agriculture Department, there are four separate wings and they all are getting the grades admissible to them as per Government notifications. He has further submitted that the nature of duties, qualifications and method of recruitment of officers of each wing are different. Similarly the seniority of each wing is separate. The officers of each wing are eligible for promotion within their respective category of service and thus, they are not entitled to the same pay scale.

Heard learned counsel for the parties.

After going through the entire facts, this Court is of the view that the petitioners are all Class II employees and are

governed by the same set of rules. In the matter of pay scale of four wings, parity in pay was being maintained between them since 1968. However, the employees of Administrative and Statistical Wings have been treated at par in giving the pay scales after doing away with the condition of 8/18 years and 6/16 years of service for grant of higher grade. The petitioners are held entitled for the same pay scales.

Accordingly this petition is allowed.

A direction is given to the respondent to fix the pay scale of the petitioners in view of the law laid down by this Court in CWP No. 5290 of 1996 titled as Jatinder Singh and another vs. State of Punjab (Annexure P-7). The petitioners are held entitled to the arrears w.e.f. the date of filing of the writ petition.”

This Court feels that the case of the petitioners is squarely covered by the ratio laid down in ***Bhagwant Singh's case (supra)***. Accordingly, the writ petition is allowed in the same terms.

05.04.2019

ps-I

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No