

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

LPA-1991-2014

Reserved on : 18.07.2019

Date of decision : 29.07.2019

State of Punjab and others

... Appellants

Versus

Er.R.K.Aggarwal and others

... Respondents

***CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR.JUSTICE HARINDER SINGH SIDHU***

Present: Mr.Ayush Sarna, AAG, Punjab.

Mr.D.S.Patwalia, Sr.Advocate with
Mr.Gauav Rana, Advocate
for the respondents.

RAJIV SHARMA, J.

This Letter Patent Appeal is instituted against the judgment rendered by the learned Single Judge in CWP-2605-1998 and analogous matters decided on 02.07.2014. However in order to maintain the clarity, the learned Single Judge has taken into consideration the facts of CWP-2605-1998.

2. The brief facts necessary for the adjudication of the appeal are that the Junior Engineers working in the department of PWD (Public Health) as per the facts of CWP-2605-1998 instituted in this Court pleading therein that in the matter of granting of revision of pay scale, they were being treated at par with the Junior Engineers working in the Department of Soil Conservation with effect from 1968 up to 1993. In the year 1968, pay scale of the respondents as well as that of Junior Engineers working in the

Soil Conservation Department was Rs.200-450/-. The pay scale of the respondents as well as of Junior Engineers working in the Soil Conservation Department, was revised to Rs.700-1200/- with effect from 01.01.1978. The parity was maintained till 01.01.1986. The respondents as well as Junior Engineers of the Soil Conservation Department were granted revised pay scale Rs.1800-3200/-. The Junior Engineers serving in the Soil Conservation Department filed bunch of petitions before this Court including CWP-11511-1993 claiming therein the pay scale of Rs.2000-3500/- instead of Rs.1800-3200/- with effect from 01.01.1986. They further claimed revision of pay scale of Rs.2200-4000/- with effect from 01.01.1991. The writ petitions filed by the Junior Engineers were allowed by this Court vide judgment dated 14.12.1995. The appellant-State filed different LPAs including LPA-581-1996. The LPAs were dismissed by this Court vide order dated 31.10.1996. The appellant-State filed SLPs before the Hon'ble Supreme Court. The Hon'ble Supreme Court dismissed the same vide order dated 19.03.1997. The appellant-State also filed review petitions no.1628-32 of 1997 in as many as five special leave petitions. The review petitions were also dismissed by the Hon'ble Supreme Court vide order dated 23.07.1997.

3. The respondents herein made representations seeking pay scale of Rs.2000-3500/- with effect from 01.01.1986 and the pay scale of Rs.2200-4000/- with effect from 01.01.1991 as well as proficiency step up of Rs.3000-4500/- after completion of eight years service and second proficiency step up of Rs.3700-5300/- after completion of eighteen years of service at par with the Junior Engineers working in the Soil Conservation Department. The representations made by the respondents were rejected by

the State on 16.06.1997. It is in these circumstances the respondents approached this Court by filing writ petitions.

4. The learned Single Judge allowed the writ petitions vide judgment dated 02.07.2014. The respondents were held entitled to revision of pay scales, i.e. Rs.2000-3500/- with effect from 01.01.1986 and Rs.2200-4000/- with effect from 01.01.1991 at par as granted to the Junior Engineers working in the Soil Conservation Department. They were also held entitled to the service benefits of proficiency step up of Rs.3000-4500/- after completion of eight years of service and second proficiency step up of Rs.3700-5300/- after completion of 18 years of service.

5. Learned counsel appearing on behalf of the appellant-State has vehemently argued that the duties and responsibilities of the employees of different departments are different. The principle of equal pay for equal work has wrongly been applied by the learned Single Judge. The decision would have far reaching ramifications in so far as it may affect other categories working in different departments of the State.

6. Learned counsel appearing on behalf of the respondents has supported the judgment dated 02.07.2014.

7. The fact of the matter is that the appellant-State has maintained parity of pay scale of the respondents vis-a-vis the Junior Engineers serving in the Soil Conservation Department. The respondents and the Junior Engineers working in the Soil Conservation Department were granted pay scale of Rs.200-450/- in the year 1968. The parity was maintained and the respondents were paid Rs.700-1200/- at par with the Junior Engineers working in the Soil Conservation Department with effect from 01.01.1978.

The same parity was also maintained by granting them pay scale of

Rs.1800-3200/- with effect from 01.01.1986.

8. The principle stand taken by the appellant-State before the Hon'ble Supreme Court in review petitions reads as under:-

“VII: It is humbly submitted that a strange situation would arise with the present judgment in LPA's holding fields as Junior Engineers employed serving with the Soil Conservation Department would now be entitled to a revised pay scale of Rs.2000-3500 w.e.f. 1.1.1986 and Rs.2200-4000/- w.e.f. 1.1.1991 after 8 years of service and further to Rs.3700-5300/- after 18 years of service, whereas equated posts in other departments namely P.W.D. would be drawing Rs.1800-3200/-. After 8 years they would be entitled to two increments and after 18 years they would be entitled to the scale of Rs.2200-3900/-. It is submitted that since the pay commission has equated Junior Engineers in the Soil Conservation Department to that of the PWD Department a separate litigation is likely to commence basing their claim on the judgments in LPA's...”

Similarly, ground no.IX of the respondent-State in its review petition before the Hon'ble Supreme Court, which is also relevant, read as under:-

“IX: It is submitted that the Finance Department of the State of Punjab rightly observed that the observations of all the three Punjab Pay Commission should have been referred to as the Sectional Officers of Soil Conservation Department and the Junior Engineers of the Engg. Departments have all along been treated at par in the matter of pay scales...”

9. Thus it is evident that the stand taken by the appellant-State before the Hon'ble Supreme Court was that if the pay scale of the category of the Junior Engineers working in the Soil Conservation Department is

revised, the Junior Engineers working in Public Work Department would also claim the same since the appellant-State was maintaining of parity of pay scale of Junior Engineers working in Department of Soil Conservation and Public Works Department.

10. The appellant-State has maintained the parity of pay scale of the respondents vis-a-vis Junior Engineers serving in the Soil Conservation Department till 01.01.1986 on the basis of their mode of recruitment, qualifications and nature of duties. It is not the case of the appellant-State that qualification or mode of recruitment of the post of Junior Engineers working in the Soil Conservation Department as well as in the Public Works Department were modified. The parity maintained by the appellant-State has been disrupted without assigning any cogent and convincing reasons. The appellant-State has not obtained any report regarding nature of duties, qualifications, mode of recruitment got compared from any expert body. The principle stand of the appellant-State before the Hon'ble Supreme Court in the SLPs qua Junior Engineers serving in the Soil Conservation Department was that it was maintaining parity of pay scale of Junior Engineers of Soil Conservation Department vis-a-vis Junior Engineers working in the Public Works Department. The learned Single Judge has rightly concluded that the State would not be permitted to wriggle out of the stand taken before the Hon'ble Supreme Court. It would be apt at this stage to take note of the fact that the appellant-State had already implemented the judgment rendered by this Court upheld by the Hon'ble Supreme Court qua Junior Engineers working in the Soil Conservation Department by giving them pay scale with effect from 01.01.1986 including proficiency step ups.

11. It is settled law that uniformity in pay structure for all common

categories should be maintained who has identical qualification and discharge same or similar duties. The action of the appellant-State by not maintaining the parity of pay scale of the respondents vis-a-vis Junior Engineers working in the Soil Conservation Department is illegal, arbitrary, irrational, thus violation of Articles 14 and 16 of the Constitution of India. It also amounts to invidious discrimination.

12. Accordingly, there is no merit in the appeal and the same is dismissed. The appellant-State is directed to implement the judgment of learned Single Judge, if not already implemented, within three months from today.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

July 29, 2019.
Davinder Kumar

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