

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

**Date of Decision: 30.01.2020
CWP No.27031 of 2015 (O&M)**

1.

Ram Karan and others

.....Petitioners

Vs.

State of Haryana and another

.....Respondents

2.

CWP No.26911 of 2015 (O&M)

Babu Lal

.....Petitioners

Vs.

The State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. C.M. Chopra, Advocate,
for the petitioners (in CWP-27031-2015).

Mr. Ravi Verma, Advocate,
for the petitioners (in CWP-26911-2015).

Mr. Hitesh Pandit, Addl. A.G., Haryana.

RITU BAHRI, J. (ORAL)

This judgment will dispose of CWP No.27031 of 2015 and CWP No.26911 of 2015 together as common questions of law and facts are involved in both the petitions. For reference, facts are being taken from CWP No.27031 of 2015.

Petitioners are seeking direction to the respondents to step up their pay at par with their junior namely Nand Kishore at all levels i.e. Assistant, Assistant Superintendent Treasury and A.T.O. as per Haryana

Government instructions dated 27.11.2006, 05.03.2009 & 23.11.2009 (Annexures P-5, P-6 and P-7).

Learned counsel for the petitioners has referred to the judgments passed by Hon'ble the Supreme Court in **Union of India vs. P. Jagdish**, 1997 (2) SCT 664 and by this Court in **Chanan Singh vs. Punjab State Electricity Board, Patiala**, 1992 (2) RSJ 451 to contend that a senior cannot be given pay lower than the junior in the same cadre. He further referred to the instructions dated 23.11.2009 (Annexure P-7), whereby Government of Haryana has taken a decision to give parity of pay scale to the senior General category employees at par with their junior counterparts of reserved category employees. In these instructions, it has been clarified that although general category word is used throughout this circular, this benefit is also to be given to Backward Class or any other category employees, who regained seniority due to application of either of two judgments (**Ajit Singh Janjua and others vs. State of Haryana and others**, 1999 (7) SC 153 and **R.K. Sabharwal's case**) over their junior counterparts belonging to reserved category employee.

In the present case, as per orders dated 12.01.2010, 26.04.2010, 21.06.2011 & 23.02.2010 (Annexures P-16 to P-19), salaries of the General category candidates have been stepped up at par with Nand Kishore, who belonged to the BC category. Petitioners are senior to the General category candidates as well as Nand Kishore and their claim is being denied by filing the written statement only on the ground that they belong to the SC category, whereas aforesaid Nand Kishore belongs to BC category. So, their case is not covered by the instructions dated 05.03.2009. Benefit of stepping up of pay is given only to the eligible employees. As per respondents,

promotion of Nand Kishore was made as per roster point meant for BC category and no post of SC category on the roster point meant for SC was available at that time.

This ground is liable to be rejected as the seniority list of the petitioners (SC category), Nand Kishore (BC category) and General category candidates i.e. Clerks is attached as Annexure P-1. As per this seniority list, petitioners' seniority stand at 179, 182, 183 and 212, whereas name of Nand Kishore (BC category) figures at serial No.220. All the general category candidates are shown at Sr. No.186, 190 and 214 onwards. All the general category and Nand Kishore are juniors to the petitioners.

In view of the above, present petitions i.e. **CWP No.27031 of 2015 and CWP No.26911 of 2015** are allowed and respondents are directed to step up the pay of petitioners at par with their juniors (reserved as well as General category candidates). This benefit is to be granted to the petitioners notionally from the date when their juniors, belonging to the General category candidates, were granted.

(RITU BAHRI)
JUDGE

30.01.2020
ajp

Whether
speaking/reasoned

Yes/No

Whether reportable

Yes/No