

2407

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-10165-1995 (O&M)
Date of Decision: 04.10.2023

JOGINDER SINGH*Petitioner*

V/s.

STATE OF PUNJAB AND OTHERS*Respondents*

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA.

Present Mr. Inayat Khullar, Advocate,
for the petitioner.

Mr. D.K. Singal, Addl. A.G., Punjab.

SANJEEV PRAKASH SHARMA, J (Oral)

1. The petitioner by way of this Writ Petition has prayed for grant of pay scale of ₹510-₹800 or in the alternative, pay scale of ₹400-₹600, with effect from 01.01.1978. The pay scale was revised w.e.f. 01.01.1986.
2. During the pendency of this Writ Petition, the petitioner has retired and therefore, this Court had passed an order on 12.09.1997 directing the Government to finalize gratuity of the petitioner as per Rules. This aspect was clarified by the Court vide order dated 28.04.1998, and it was left open for deciding the case on merits. The petitioner, thereafter, expired and his legal representatives (LRs) were taken on record. Notices were also issued to respondents No.3 and 4, but they have failed to appear before the Court. This Court allowed the application for bringing on record the LRs of the deceased petitioner and also made observations that in case the petition is decided on merits, the LRs of the deceased petitioner would

be entitled to the arrears of the revised pay that were not granted to the petitioner during his lifetime.

3. Learned State Counsel submits that the pay fixation and grant of arrears is to be done by respondents No.3 and 4. The petitioner was appointed as an Electrician at the Baring Union Christian College, Batala, which is a privately managed recognized college receiving aid up to 95% from the Government of Punjab. The post of Electrician which the petitioner held, was a duly sanctioned aided post by the State Government and therefore, the pay scale as laid down by the Punjab Government from time to time would be applicable to the petitioner. According to the petitioner, pay scale of ₹510-₹800 was brought into force w.e.f. 01.01.1978 and he was fixed at ₹700/- in the said pay scale. However, on 01.02.1984, the pay scale of the petitioner was reduced to ₹400-₹600 and accordingly, his basic pay was reduced to ₹630/- instead of ₹700/-. The pay scale of the petitioner was further reduced to ₹325-₹495 from ₹400-₹600 the petitioner, and was fixed at ₹495/-. The petitioner challenged the same before the College Tribunal and an undertaking was given by the Principal of the College that his pay of ₹630/- shall remain protected. The pay scale of the post of Electrician, which the petitioner was holding, was revised to ₹950-1800 from ₹400-600 w.e.f. 01.01.1986, but the petitioner had been continued to be fixed at the pay scale of ₹352-₹495. He, therefore, has preferred this Writ Petition seeking revision of his pay.

4. The respondents in their reply have submitted that petitioner was appointed by respondents No.3 and 4 and was not working under the

control of the Government. The College Management did not allow the pay scale of ₹400-₹600 to the petitioner and accordingly he remained in the pay scale of ₹325-₹495. The claim of the petitioner for grant of pay scale ₹400-₹600 was not accepted by the Government on the ground that he was not possessing the requisite qualification for the post of Electrician because he was only 7th Class pass and the said post was taken in the pay scale of ₹325-₹495 on the basis of qualification. He, therefore, was not entitled for the higher pay scale of ₹400-₹600 w.e.f. 01.01.1978 and to the pay scale of ₹950-₹1800 w.e.f. 01.01.1986.

5. I have considered the submissions of the counsel for the parties and carefully gone through the record available in the case file.

6. The pay scales as recommended by the Pay Commission from time to time are with reference to the post only and not to the qualification of an individual. If a person has been appointed and continued to work on a particular post, the pay scale of that post will have to be paid to him. If the concerned person does not possess the educational qualification for direct recruitment on the said post, then the action has to be taken otherwise, but till he holds the post and performs his duty on a particular post, he is entitled to receive the pay scale as attached to the said post.

7. In view of the aforesaid principle, since the petitioner had performed his duties of the Electrician in the aided institution against the grant-in-aid post and he was allowed to continue without any demur from the respondents, his pay scale could not have been fixed lower than the pay scale of the post of Electrician. Granting of lower pay scale amounts to

lowering down status of the concerned person. But the petitioner admittedly continued as an Electrician. He, therefore, would be entitled to the fixation of pay in the pay scale of ₹400-₹600. Even otherwise, the respondents have not been able to point out any such recommendations of the Pay Commission wherein lower pay scale is required to be given on the basis of lower qualification of a particular post while working on the higher post.

8. In view thereof, the Writ petition is allowed. The pay fixation of the petitioner shall be made accordingly in the pay scale of ₹400-₹600 with effect from 01.01.1978 and ₹950-₹1800 w.e.f. 01.01.1986. The arrears shall accordingly be calculated and released to the petitioner by respondents No.3 and 4. The respondent-State has already treated the post of the petitioner as an aided post, therefore, respondents No.1 and 2 and respondents No.3 and 4 shall be responsible to get the pay fixation of the petitioner done and the arrears be paid to the LRs of the deceased petitioner within a period of three months henceforth.

9. All pending applications in this Writ Petition shall stand disposed of accordingly.

October 4, 2023

Ess Kay

**[SANJEEV PRAKASH SHARMA]
JUDGE**

<i>Whether speaking / reasoned</i>	:	<i>Yes/No.</i>
<i>Whether Reportable</i>	:	<i>Yes/No</i>