

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4870 of 1995 (O&M)
Date of decision: 16.01.2023

Dina Nath and others

..Petitioners

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. G.S.Attariwala, Senior Advocate, with
Mr. Vansh Chawla, Advocate,
for the petitioners.

Mr. Maninder Singh, DAG, Punjab.

ANIL KSHETARPAL, J(Oral)

1. The petitioners, who are working as Junior Engineers (Horticulture) in P.W.D. (B&R) pray for the issuance of a writ in the nature of certiorari to quash the decision dated 25.01.1995, refusing them parity of pay with the Agricultural Technocrats working in the Agriculture Department.

2. This Bench has heard the learned counsels representing the parties at length and with their able assistance perused the paper book.

3. The learned senior counsel representing the petitioners submits that the pay scale of a Junior Engineer (Horticulture) in the P.W.D. (B&R) and the Agriculture Technocrats was equivalent during the time of the first, second and third Pay Commissions. He submits that there is no reason to discriminate in between the petitioners at this point in time. He submits that, at one stage, the representation of the petitioners was favourably recommended for approval on the question of pay parity, however, when the matter went to the Council of Ministers, the petitioners' case was not

forwarded. He also relies upon the observations noticed by the Department of Agriculture and Cooperation Ministry of Agriculture, Krishi Bhawan, New Delhi in communication dated 29.01.1986. In support of his submissions, he relied upon the judgment passed in **R.K.Aggarwal and others vs. State of Punjab and others (Civil Writ Petition No.2605 of 1998, decided on 02.07.2014)** and **G.K.Nagpal and others vs. The Punjab State Electricity Board, Patiala,, 1998 (2) SLR 642 (DB) P&H.**

4. This court has considered the submissions of the learned senior counsel representing the petitioners.

5. While contesting the case, the State of Punjab has asserted that the petitioners, who are working in the P.W.D. (B&R) cannot be given the pay scales equivalent to the Agricultural Technocrats because the nature of the work of the petitioners is entirely different from the work of the Agricultural Technocrats. It has been highlighted that the petitioners are only carrying out the work of landscaping in the government buildings, whereas the Agricultural Technocrats have to create new ways and means related to the field of agriculture. They also prepare guidelines and fix programmes to guide the people regarding the new techniques and research etc. to increase the production in the agriculture sector.

6. It is well known that the equation of pay scale is a complex task which is appropriately done by the Pay Commissions and Pay Anomaly Committees which are constituted for dealing with the matters related to pay. The scope of judicial review in such kind of special matters is very limited. The learned senior counsel representing the petitioners, has failed to draw the attention of the court to any conscious decision by the Government of Punjab equating the post of Junior Engineers, P.W.D. (B&R) with that of

the Agricultural Technocrats working in the Agricultural Department.

7. It is not in dispute that the nature of work of the petitioners in P.W.D. (B&R) is distinct from that of the Agricultural Technocrats. Merely because at one point in time, the representation of the petitioners was recommended for approval on the question of pay parity, it would not confer any right on the petitioners to claim that they are also entitled to the same pay as the Agricultural Technocrats. Recently, the Supreme Court in **State of Bihar vs. Bihar Secondary Teachers Struggle Committee, Minger and others (2019) 18 SCC 301** laid down the following parameters for the Courts before accepting the applicability of the doctrine of “Equal Pay for Equal Work” in the following manner:-

“96.1 Analysis of the decisions referred to above shows that this Court has accepted following limitations or qualifications to the applicability of the doctrine of ‘equal pay for equal work’:-

96.1) The doctrine of ‘equal pay for equal work’ is not an abstract doctrine.

96.2) The principle of ‘equal pay for equal work’ has no mechanical application in every case.

96.3) The very fact that the person has not gone through the process of recruitment may itself, in certain cases, makes a difference.

96.4) The application of the principle of ‘equal pay for equal work’ requires consideration of various dimensions of a given job.

96.5) Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere.

96.6) Granting pay scales is a purely executive function and hence the court should not interfere with the same. It may have a cascading effect creating all kinds of problems for the Government and authorities.

96.7) Equation of posts and salary is a complex

matter which should be left to an expert body.

96.8) *Granting of pay parity by the court may result in a cascading effect and reaction which can have adverse consequences.*

96.9) *Before entertaining and accepting the claim based on the principle of equal pay for equal work, the Court must consider the factors like the source and mode of recruitment/appointment.*

96.10) *In a given case, mode of selection may be considered as one of the factors which may make a difference.”*

8. The argument of the learned counsel representing the petitioners is based on the doctrine of “equal pay for equal work which has been held to be not an absolute doctrine. It has been termed as a constitutional goal. There is no mechanical application of the said doctrine in every case that arises. The petitioners are seeking parity with agricultural technocrats working in the different departments. While contesting the case, the State of Punjab has already submitted that the nature of the work of the petitioners is entirely different from the duties and functions performed by the Agricultural Technocrats

9. In these circumstances, the judgments passed in **R.K. Aggarwals and others** and **G.K. Nagpal and others (supra)** would have no application at the facts of the present case.

10. Keeping in view the aforesaid facts and discussion, no ground to issue the writ, as prayed for, is made out.

11. Hence, dismissed.

12. All the pending miscellaneous applications, if any, are also disposed of.

January 16, 2023

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Whether speaking/reasoned

Whether reportable

(ANIL KSHETARPAL)

JUDGE

: *Yes/No*

: *Yes/No*