

324 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-8269-1995

Date of Decision: 19.09.2023

Rajesh Vashisht and another

...Petitioners

VERSUS

State of Punjab and another

...Respondents

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

Present: Mr. M.K. Tiwari, Advocate for the petitioners.

Mr. D.K. Singhal, Addl. AG, Punjab.

SANJEEV PRAKASH SHARMA, J.(ORAL)

1. The petitioners have preferred this writ petition praying for the issuance of directions to the respondents to release the pay scale of Rs.2000-3500 to the Senior Technical Assistants (hereinafter referred to as 'the STAs), working in the Agriculture Department as was being already granted to the STAs of the Irrigation Department.

2. Learned counsel for the petitioners submits that the STAs working in the Agriculture Department and the STAs working in the Irrigation Department have the same sphere of duties and are two different wings of the same administrative departments. The STAs whether working in the Agriculture Department or in the Irrigation Department have the same nature of duties. The STAs in the Irrigation Department assist in groundwater studies like groundwater quality, quantity, collection and analysis of hydro-logical field

data. Learned counsel submits that the respondents in their affidavit have admitted that the STAs of Agriculture Department also perform same duties. They also carry out field studies for assessing ground water draft of tubewells in the State.

3. Historically, the pay scale STAs of Agriculture Department and that of Irrigation Department were same. The pay scale as per the 1st Pay Commission of the STAs of Agriculture Department was of Rs.300-600. By 2nd Pay Commission, the pay scales were identically enhanced to Rs.700-1200 of both the STAs of the Agriculture as well as Irrigation Department. As per the 3rd Pay Commission also, same pay scales of Rs.1640-2925 were granted to the STAs of both the departments. However, when the intermediate pay scale was enhanced, the STAs of Agriculture Department were granted the pay scale of Rs.1800-3200 while the STAs of Irrigation Department started drawing the pay scale of Rs.2000-3500/-. The anomaly continued in the 4th Pay Commission, where the petitioners and others STAs of Agriculture Department, were granted the pay scale of Rs.5800-9200 while the STAs of Irrigation Department were granted the pay scale of Rs.6400-10640.

4. Learned counsel submits that the pay scale of 5th Pay Commission places both the STAs of the Agriculture Department as well as Irrigation Department in the pay scale of Rs.10300-34800 but grade pay of Rs.3800/- was granted to the STAs of the Agriculture Department while grade pay of Rs.4200/- was granted to the STAs of the Irrigation Department. Thus, pay scale of the STAs of the Irrigation Department has been enhanced above that of STAs of the Agriculture Department, who are legally entitled to the same pay

scale. Learned counsel relies upon the judgment passed by this Court in the case of **Jagraj Singh vs. State of Punjab 1994 (4) SCT 412** as well as on the judgment of the Hon'ble Karnataka High Court in the case of **B.N. Chandrasekhara vs. State of Karnataka and another 1980(1) SLR 38** and also relied upon the judgment of the Hon'ble Orissa High Court in the case of **Khirod Chandra Das vs. State of Orissa and another 1977 (2) SLR 403**.

5. Per contra, learned counsel appearing for the State has pointed out that although the nature of duties and qualifications may be the same, the intermediate pay scale as per 3rd and 4th Pay Commission was enhanced of STAs of Irrigation Department, in pursuance of the directions issued by this Court in CWP-2237-1987, whereas they were only getting Rs.1640-2925. The higher pay scale awarded to the STAs of Irrigation Department is also on account of the same reason. However, as per the 5th Pay Commission, both the STAs of Agriculture Department and Irrigation Department, have been brought at par, except the grade pay which is higher of STAs of Irrigation Department. Learned counsel submits that granting of a particular pay and allowances is within the scope of the pay commission, who recommends from time to time the different pay scales for different posts.

6. I have considered the submission and perused the record carefully and find that the question for adjudication is as to whether the petitioners have a legal and constitutional right to be paid higher salary as claimed by them on account of disparity with the STAs of the Irrigation Department. This Court is of the firm view that fixing a particular salary of a particular post is within the domain of the administrative law and the power vests solely with the pay

commission to fix a particular pay scale for a particular post. This Court can of course conduct an exercise of judicial review, if it is shown that there has been a disparity or discrimination by the concerned authority by granting a particular pay scale. However, this Court would not substitute its own opinion to that of the concerned pay commission. The government from time to time appoints a pay commission to re-examine the pay scales which are already being granted to the employees. At the said stage, the nature of working of a particular post is taken into consideration. The educational qualifications may be considered and also the nature of duties assigned to a job. There may be some universal posts which are to be filled in all the departments and their selection process is also common but there may be posts which are of the same nomenclature but in different departments, which may carry sometimes the same pay scale or which may carry different pay scales.

7. Keeping in view the principles, if the facts of the present case are examined, this Court finds that the pay commission had initially recommended for grant of the same pay scales to the STAs of the Agriculture Department and Irrigation Department upto the 3rd pay commission. However, the intermediate recommendations for grant of higher pay scale to the post of STAs may be a difference in pay scale of STAs of Agriculture Department and that of the Irrigation Department. Resultantly, while the petitioners as STAs in the Agriculture Department were given the pay scale of Rs.1800-3200, the pay scale of the STAs of Irrigation Department was enhanced to Rs.2000-3500. The enhanced pay scale granted to the STAs of the Irrigation Department continued even by the recommendation of the 4th pay commission, where the pay scale of

STAs of Agriculture Department was found to be lower than that of the pay scale of the STAs of the Irrigation Department and similarly, even in the 5th pay commission, the grade pay is more of STAs of the Irrigation Department to that of the Agriculture Department. The selection process for appointment to the different departments is separate and there is no inter-transferability. Thus, the STAs of the Agriculture Department though may be under the administrative control of the same secretarial department as that of STAs of the Irrigation Department, but form a separate cadre. Similarly, the pay commission which meant after 3rd pay commission, has been consistently making recommendations treating the two departments separate and distinct and the posts being distinct. Merely by nomenclature, it cannot be said that principle of 'equal pay for equal work' would apply.

8. In view thereof, the judgments (supra) as relied upon by learned counsel for the petitioners would have no application to the facts of the case as the claim is not made out. The writ petition is found to be bereft of merit and is accordingly dismissed.

19.09.2023
rajesh

(SANJEEV PRAKASH SHARMA)
JUDGE

Whether Reportable	:	Yes/No
Whether Speaking/Reasoned	:	Yes/No