

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CWP No.11468 of 1995

Tara Singh and othersPetitioners

VERSUS

State of Punjab and othersRespondents

AND

2. CWP NO.17502-1994

Date of Decision: July 27th ,2023

Raj Singh and othersPetitioners

VERSUS

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present: Mr.Samarth Sagar, Advocate, for the petitioners.

Ms. Shivani Sharma, D.A.G.Punjab

SANJEEV PRAKASH SHARMA, J

1. Since in both the above titled writ petitions i.e CWP No.11468 of 1995 and CWP No.17502 of 1994, same question of law is involved, therefore, are being decided by a common order. For convenience, the facts are being taken from CWP No.11468 of 1995.

2. Brief facts which need to be noticed for the purpose of adjudication of this writ petition are that the petitioners were appointed as Surveyors in the office of Director of Agriculture in the pay scale of 140-300.

The petitioners' pay scale has increased to 450-800 vide recommendation of 2nd pay commission and 1200-2100 vide recommendations of 3rd pay commission.

The claim set up by them is for grant of pay scale of 1500-2640 as being paid to Surveyors of Industries Department as well as Surveyors of Soil and Water Conservation and Waste Land Development Department. It is their case that the Surveyors of the Soil and Water Conservation and Waste Land Development Department were earlier working with the Agriculture Department and vide Civil Writ Petition No.650 of 1984, this Court granted them parity in pay scale to that of Surveyors of Industries Department. The petitioners too claim the similar benefit.

3. Learned counsel for the petitioners submits that there is no logic of the Government to award higher pay scale of 1800-3200 upon completion of 12 years of service to Surveyors of Soil and Water Conservation and Waste Land Development Department while depriving the petitioners who are in the Agriculture Department. It is submitted that they are at par with the Surveyors of the Soil and Water Conservation Department. Learned counsel further submits that there is no reasonable base for the classification and there is no nexus that the objects sought to be achieved by creating an artificial classification between the petitioners and the Surveyors of other two departments.

4. It is submitted that no plausible reasons have come forward for denying the same pay scale to the petitioners. The duty list of Surveyors of Agriculture Department, Geological Section are more cumbersome to that of the Soil Conservation Water Works and therefore, the petitioners ought to be granted the similar pay scale as given for Surveyors of Industries Department and Soil Conservation Department.

5. *Per contra*, learned counsel appearing for the State has pointed out that the pay scales are fixed on the recommendations of the Pay Commission who have exclusive domain in this case. The duties of the Surveyors in the Agriculture Department are totally different from that of the other departments. The Duty List has been provided as under:-

***“ Duty list of Surveyors of the Agricultural Department
(Geological Section.)***

....

1. *Fixing of Reduce Level on observatory wells/Pezometers in the field.*
2. *Supervision of installation of Pezometers in the field.*
3. *Proper maintenance and safe custody of the survey equipment, which is issued to him.*
4. *To maintain the water level records in the office as well as survey work.*
5. *To conduct the compass survey/ Plan Table survey in the field for marking the location of observatory wells/Pezometers.*
6. *Surveyors carry out other duties especially assigned to him by the Geologist/Hydrologist, Punjab as well as Asstt.Geologist in the field.*

***Duty list of Surveyor of the Agricultural Department
(Tubewell Sec.)***

....

1. *To fix the Reduce level of all the bores sunk by this Section after survey.*
2. *Location of tubewell site in the progress.*
3. *Marking contours by taking water level of bores sunk by this section after surveying.*
4. *Layout map of location all the bores taken by rigs by plan table survey.*
5. *To calculate the Reduce level's bores in hand at site.*
6. *To draw strata charts of bores taken up with rigs.*
7. *To maintain store stock relating to office.*

Duty list of the Surveyors in the Soil Conservation Department has also been provided hereunder:-

“ Duty list of Surveyors in the Soil Conservation Department.

.....

1. *Surveyor will work under the control of AI/SCI/SE. He will contact the farmers and collect applications for soil conservation works on prescribed forms alongwith copy of revenue and other record needed for the purpose.*
2. *The applications for soil conservation works collected by the Surveyor will be deposited by him with the AI/SCI/SO.*
3. *Surveyor will assist the Section Incharge in processing the loan cases and disbursement of loan.*
4. *Surveyor will carry out the survey and collect other field data required for the preparation of the plan and estimated. He will also maintain the level book in proper form prescribed for the purpose and Reduce level work.*
5. *Surveyor will prepare the contour plan on the basis of the survey conducted by him.*
6. *Surveyor will be responsible for the safe custody and proper storage of the construction material issued to him for use at site. He will maintain the M.A.S. registers. The consumption of the material issued for use at site will be shown as having been consumed after the same has been entered by the AI/SCI/SO in his M.B. after recording the measurement.*
7. *Surveyor will assist the AI/SCI/SO in preparing detailed estimates sheets for land levelling and bench terracing works.*
8. *The Surveyor will undertake tour with the approval of AI/SCI/SO and. will record the entries in the movement register.*
9. *The Surveyor will assist and supervise the execution of work allotted to him by the AI/SCI/SO. He will be*

responsible for execution of work, maintaining its quality to the satisfaction of the Section Incharge.

10. The Surveyor will be responsible for the proper maintenance and safe custody of the survey equipment.

11. The Surveyor will carry out other duties specifically assigned to him by the AI/SCI/SO at any time.”

6. It is submitted that the field of work is totally different from one another. It is also stated that the Surveyors in Soil Conservation Department and Industries Development Department have different eligibility requirements for appointment to that of the Surveyors of the Agriculture Department. In addition to educational qualification, three years experience is required for recruitment as a Surveyor in the Industries Department. In view thereof, learned counsel submits that the Surveyors of the Agriculture Department can have no comparison with the Surveyors of the Industries Department and cannot claim the same pay scale.

7. I have heard the submissions.

8. In **The Union of India and ors. v. Rajib Khan and others 2023 AIR (Supreme Court) 448**, the Court has observed as under:-

“4.4 In the case of Pramod Kumar Sahoo (supra) it is observed and held that nature of work may be more or less the same but the scale of pay may vary based on academic qualification or experience which justifies classification. It is further held and observed that inequality of men in different groups excludes applicability of the principle of equal pay for equal work to them. In the case before this Court, this Court upheld the classification based upon the higher educational qualification for grant of higher pay scale to a trained person or a person possessing higher qualification.

5. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand the view taken by the High Court that the educational qualification cannot be a ground for denial of Nursing Allowance to the

Nursing Assistants is unsustainable. In the present case the respective Nursing Assistants are being paid 'Hospital Patient Care Allowance. The Nursing Assistants in the BSF neither have relevant experience for appointment as Staff Nurse nor they possess any educational qualification for appointment as Staff Nurse. Therefore, the case of Nursing Assistants cannot be compared with that of the Staff Nurses as both carry different educational qualification. Under the circumstances, the High Court has committed a serious error in holding and directing that the Nursing Assistants serving in the Assam Rifles/BSF are entitled to Nursing Allowance at par with the Staff Nurses."

9. In Union of India v. Indian Navy Civilian Design Officers Association & Anr. 2023 SCC OnLine SC 173, the Court followed the law laid down in State of Haryana vs. Charanjit Singh 2006(9) SCC 321. In Union of India through Secretary, Department of Personnel, Public Grievances and Pensions vs. T.V.L.N Mallikarjuna Rao (2015) 3 SCC 653, the Apex Court has held as under:-

“14. Case of respondents/applicants before the Central Administrative Tribunal:

Respondent-T.V.L.N. Mallikarjuna Rao, pursuant to Key-Punch Operators examination 1989, was appointed on 11th September, 1989 as Key-Punch Operator. He was redesignated as Data Entry Operator Grade 'A' w.e.f. 16th November, 1992. He submitted a representation on 11th March, 1994 for seeking placement in the Data Entry Operator Grade 'B' on the basis of his education qualification and the same was rejected by letter dated 25th July, 1994 on the ground that the post of Data Entry Operator Grade 'B' in Staff Selection Commission is a promotional post of Data Entry Operator Grade 'A'. Merely, on account of higher educational qualification one could not claim higher post.

15. xxxx

16. xxxx

17. Respondents - V. Ambi, Thirunavukkarasu, A. Selvaraj and R. Ravi, were appointed in Heavy Alloy Penetrator Project (HAPP) under the Ministry of Defence, Government of India as Planning Assistant on casual basis w.e.f. 16th November, 1989, 25th August, 1988 and 20th September, 1989 in the then pay scale of Rs.950-1500, later on their services were regularized. At the time of their appointment in HAPP, it was a Joint Venture project of Defence Research and Development Organization and in 1990 HAPP was transferred to Ordnance Factory Board and their services were regularised. On 8th November, 1996, the Ministry of Defence re-designated the Planning Assistant to Data Entry Operator Grade 'A' with higher pay scale of Rs.1150-1500. The aforesaid respondents moved before the Central Administrative Tribunal, Madras Bench in O.A.No.432 of 1997 seeking pay scale of Rs.1600-2660 w.e.f. 11th September, 1989. The Central Administrative Tribunal, Madras Bench dismissed the said original application by order dated 22nd July, 1999. The respondents jointly filed O.A.No.701 of 2009. By judgment dated 3rd September, 2010, Central Administrative Tribunal in OA No.701 of 2009 passed certain directions following the judgment of the High Court of Bombay in a similar matter. The appellants were directed to grant pay scale of Rs. 1350-2200 to the respondents. Being aggrieved, the appellants filed a writ petition being W.P. No.6342 of 2011 before the High Court of Judicature at Madras. By the impugned judgment dated 17th March, 2011 the Division Bench of the High Court of Judicature at Madras dismissed the writ petition.

18. Respondent- Sunjay Gurvekar was appointed on 11th January, 1990 as Puncher-cum-Verifier in the office of Staff Selection Commission, Department of Personnel and Training, Ministry of Public Grievance and Pensions in the pay scale of R.950-1500. He was redesignated as Data Entry Operators Grade 'A'. He also moved before the Central Administrative Tribunal, Bangalore Bench for similar relief. The Central Administrative Tribunal by the order dated 12th March, 2010 allowed the said O.A.No.99 of 2007. On challenge made by the appellant-Union of India, Division Bench of High Court of

Karnataka, by the impugned judgment dated 22nd September, 2010 dismissed the writ petition.”

10. Keeping in view the aforesaid principles laid down by the Apex Court if the case of the petitioners is examined, this Court finds that neither the High Court would be in a position to make the comparison nor reach to the conclusions of parity of work and equivalence of posts. This Court is satisfied that the commission has, after considering all the aspects, reached to the conclusion that the petitioners do not possess the qualification or experience or equivalence to the Surveyors of the other two departments and therefore, are not entitled to the same pay scale. The decision does not require judicial interference.

11. Both the writ petitions, being devoid of merit, are accordingly dismissed.

12. No order as to costs.

13. Pending application(s), if any, also stands disposed of accordingly.

July 27th ,2023
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(SANJEEV PRAKASH SHARMA)
JUDGE

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