

In the High Court of Punjab and Haryana, at Chandigarh

1. Civil Writ Petition No. 11377 of 2022

Jaswant Singh and Others
... Petitioner(s)

Versus

State of Punjab and Others
... Respondent(s)

AND

2. Civil Writ Petition No. 11431 of 2022

Raj Kumar and Others
... Petitioner(s)

Versus

State of Punjab and Others
... Respondent(s)

DATE OF DECISION: 20.02.2023

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. R.K.Arya, Advocate
for the petitioners.

Mr. D.K.Singal, Additional Advocate General,
Punjab, for the respondents.

Anil Kshetarpal, J.

1. Two identical writ petitions have come up for preliminary hearing. The learned counsel representing the petitioners is *ad idem* that both the aforesaid writ petitions can conveniently be disposed of by a common order. The facts, in brief, are being noticed from the Civil Writ Petition No. 11377 of 2022.
2. In the Civil Writ Petition No. 11377 of 2022, the petitioners pray for issuance of a writ in the nature of certiorari to quash the order dated

dated 20.09.2021. In substance, the petitioners pray for parity of their pay with that of the Clerks. The petitioners herein are working/retired as the Restorers/Supervisors in the Department of Revenue and Rehabilitation, Punjab. Their case is based on the fact that previously, their pay scales and pay were at par with that of the Clerks. However, after the enforcement of the report of Fifth Pay Commission, the pay scales are no more at par with that of the Clerks.

3. Pursuant to the orders passed in the previous writ petitions filed by the petitioners, the Special Chief Secretary-cum-Financial Commissioner Revenue, Punjab, has considered the claim of the petitioners. While rejecting their claim, it has been held that their mode of recruitment, qualifications, experience, size of the cadre, skill, proficiency, eligibility, dexterity etc. are different from that of the Clerks. The report of the Sixth Pay Commission has already been relied upon while rejecting the petitioner's claim.

4. It is, by now, a well settled rule that in the absence of a conscious decision to equate the pay of two different cadres, the Court will not grant parity on the doctrine of "equal pay for equal work". The doctrine of "equal pay for equal work" is not an abstract doctrine. Moreover, the entitlement of the pay for a particular cadre is a complex job which can be more appropriately carried out by the expert body namely the Pay Commission and Pay Anomaly Committee. The scope of power of the writ Court has been explained in a recent judgment passed in ***State of Bihar vs. Bihar Secondary Teachers Struggle Committee, Munger and others (2019) 18 SCC 301***. The following salient features have been noticed in para 96 of

the said judgment:-

“96. 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.”

5. Keeping in view the aforesaid facts, this Court does not find it appropriate to exercise the writ jurisdiction to order parity of two separate cadres. Consequently, both the writ petitions are dismissed.

(Anil Kshetarpal)
Judge

February 20, 2023
“DK”

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