

229 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-14738-CWP-2018 in/and
CWP No.3220 of 2005 (O&M)
Date of decision : 13.03.2023

The Punjab State Electricity Board Driver Operator Union

..... Petitioners

versus

The Punjab State Electricity Board and another

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Inayat Khullar, Advocate
for the petitioners.

Mr. Sehaj Bir Singh, Advocate
for the respondents.

PANKAJ JAIN, J. (ORAL)

CM-14738-CWP-2018

For the reasons recorded, the application is allowed. The main case is taken up on Board today itself.

CWP No.3220 of 2005

Learned counsel representing the respondents submits that the petitioners herein prayed for parity of scale of pay *vis-a-vis* pay scale granted/revised to other class of posts within the same group. He submits that the matter now stands concluded by the judgment passed by the Apex Court in Civil Appeal No.193 of 2019 titled as ***Punjab State Electricity Board & another Vs. Thana Singh & others*** dated 08.01.2019 wherein the Apex Court held as under :-

25. In the writ petition, the respondents have taken the plea that they are entitled to the scale of pay on par with the employees of the Punjab Government in parity of the wages. Nature of work performed by those in the service of Punjab Government are different from those in service of the Board, the learned Single Judge rightly refused to accept the plea of the respondents claiming parity with the employees of the State Government.

26. The learned Single Judge, however, proceeded under the erroneous footing that merely because Sub Fire Officers were categorised in Group XII, they were entitled parity of scale of pay with pay scale of Head Clerks, Head Clerk-cum-Divisional Accountants and Internal Auditors. Inclusion of posts of Sub Fire Officers in Group XII may not be a determinative factor to hold that the Sub Fire Officers are equal with Head Clerks, Head Clerk-cum-Divisional Accountants, and Internal Auditors. Mere difference in pay scale does not always amount to discrimination; it depends upon the mode of selection/recruitment, nature, quality of work and duties and that the status of both the posts are identical. Observing that it is not always impermissible to provide two different pay scales in the same cadre, this Court, in *SAIL*, held as under:-

“29. It is a settled legal proposition that it is not always impermissible to provide two different pay scales in the same cadre on the basis of selection based on merit with due regard to experience and seniority. (Vide *State of U.P. and Others v. J.P. Chaurasia and Others* (1989) 1 SCC 121 and *Mewa Ram Kanojia v. All India Institute of Medical Sciences and Others* (1989) 2 SCC 235.) “Non-uniformities would not in all events violate [Article 14](#).” Thus, a mere difference does not always amount to discrimination. (Vide [Madhu Kishwar and Others v. State of Bihar and Others](#) (1996) 5 SCC 125, *Associate Banks Officers’ Assn. v. SBI and Others* (1998) 1 SCC 428 and [Official Liquidator v. Dayanand and Others](#) (2008) 10 SCC 1).”

27. Respondents have not produced any material to show that there is any similarity/identity between the posts of Sub Fire Officers and the Head Clerks, Head Clerk-cum-Divisional Accountants and Internal Auditors in terms of the nature of duties, responsibilities, qualifications and mode of recruitment etc. to apply the principle of parity of pay scale. The learned Single Judge did not keep in view that the nature of duties and responsibilities performed by the Sub Fire Officers are different and parity cannot be claimed merely on the ground that they are categorised in one group. The judgment of the learned Single

Judge and the impugned judgment of the Division Bench cannot be sustained and are liable to be set aside.

28. In the result, the impugned judgment dated 28.09.2010 passed by the High Court of Punjab and Haryana at Chandigarh in LPA No.713 of 2010 is set aside and this appeal is allowed. Pursuant to the interim order of the Supreme Court, if any amount over and above the salary payable has been paid, the same may not be recovered from the respondents and other Sub Fire Officers.”

Learned counsel representing the petitioners is not in a position to dispute the aforesaid fact.

Keeping in view the ratio of law laid down by the Apex Court in ***Thana Singh's case (supra)***, the present writ petition is dismissed.

(PANKAJ JAIN)
JUDGE

13.03.2023
Pooja sharma-I

Whether speaking/reasoned	Yes
Whether Reportable :	No