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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-11207-2015 (O&M)

Date of Decision: 24.08.2023

JAGJIT SINGH AND ANOTHER

.....Petitioners

V/s.

**THE STATE OF PUNJAB THROUGH THE PRINCIPAL SECRETARY
TO GOVT. OF PUNJAB, DEPARTMENT OF HEALTH AND FAMILY
WELFARE AND OTHERS**

.....Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

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

 Mr. Charanpreet Singh, AAG, Punjab.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. The petitioners, who are working on the post of Electrician, claim re-designation as Technician Grade-I, II and III in terms of the recommendations of the 3rd Pay Commission and also the benefits which would flow accordingly.
2. Learned counsel for the petitioners has taken this Court to the recommendations of the 3rd Pay Commission wherein it was recommended that the post of skilled and semi-skilled staff in the technical grade ought to be re-designated as Helper, Junior Technician, Technician Grade I, II and III and also recommended the pay scales accordingly.
3. Learned counsel for the petitioners submits that the different Municipal Councils/Corporations have decided to grant the said pay scales to their staff in terms of the recommendations of the 3rd Pay Commission.

4. Learned counsel for the petitioners submits that the petitioners too are entitled for implementation of the recommendations of the 3rd Pay Commission in the Medical and Health Department, more so, as the State Government had already directed vide their letter dated 26.10.1988 to the respective Departments to take up amendments of relevant Service Rules wherever necessary, in order to implement the recommendations of the Commission which has been accepted by the State Government.

5. Learned counsel for the petitioners submits that on account of inaction on the part of the Department of Health and Family Welfare, Punjab, the petitioners are being deprived of the benefits of the said recommendations and the benefit of the channel of promotions as recommended.

6. The State was asked to submit affidavit in this regard by this Court vide order dated 31.01.2017, whereafter, the affidavits have been filed according to which the recommendations of the 3rd Pay Commission have not been made applicable to the Department of Health since the recommendations do not mention about the Health and Family Welfare Department. It has been asserted that the petitioners, therefore, cannot be designated as Technician Grade I, II and III in terms of the said recommendations.

7. I have heard learned counsel for the parties and find that merely because the Health and Family Welfare Department is not mentioned in the recommendations, it would not mean exclusion of the staff working on skilled and unskilled level in the said Department from executing the recommendations.

8. Admittedly, the petitioners are working as Electrician and would therefore be entitled for the similar treatment as has been granted to the other Departments.

9. The respondents' affidavit states that the petitioners were appointed as Electrician in the pay band of ₹400-₹600 and the same was revised to ₹950-₹1800 w.e.f. 01.01.1986 and further revised to ₹5910-₹20200 w.e.f. 01.01.2006. Instructions dated 16.09.2002 is stated to be applicable and relating to the Urban Local Bodies only and therefore, the petitioners were not designated as Technician Grade-III and Technician Grade-II, I and the benefit of revised pay scale could not be given to the petitioners because the cadre of the Health Department was not mentioned.

10. It would be apposite to mention the relevant portion/paras of the said 3rd Pay Commission recommendations which are as under:-

26.1 *The existing grade structure of the skilled and semi-skilled staff in various departments in highly diverse and presents a somewhat confused picture. The skilled and semi skilled staff is employed mainly in the workshops of the departments of Irrigation, P.W.D. (B&E), P.W.D. (P.H.) Transport and the Printing Presses of the Department of Printing and Stationary. It has been observed by us that the posts bearing the same designations in different departments carry different scales although the incumbents perform similar duties. So much so that even posts with the same designations in the same department carry different scales. The mode of recruitment to identical/comparable categories differs from department to department. The qualifications prescribed for recruitment also vary from department to department even for some designations. There is thus need for rationalization of the grade structure, designations, qualifications and mode of recruitment for the skilled and semi-skilled staff working in various departments.*

26.2. Apart from the problems of different designations, different qualifications and different modes of recruitment presently prevailing in various department, there are no specified avenues of promotion for most of the categories of skilled and semi skilled staff. Advance of specified promotional channels has led to resentment among such staff belonging to all categories.

26.3 At present, such staff below the supervisory levels in placed in the following scales:-

- i. 325-495
- ii. 400-600
- iii. 400-660
- iv. 450-700
- v. 400-700
- vi. 450-800
- vii. 510-800
- viii. 510-880
- ix. 525-825
- x. 570-1000

26.4 We have tried to standardizes the designations for the skilled and semi-skilled staff working in various departments. The existing pay scales, recommended revised scales and the suggested designations are given in the table below: -

Sr. No.	Existing scales of pay	Revised scales of pay	Revised Designation
i.	325-495	910-1440	Helper
ii.	(400-600)) 400-660)	950-1000	Junior Technician
iii.	450-700)) 400-700)	1025-1800	Technician Grade-IV
iv.	450-800)) 510-880)) 510-800)	1200-2100	Technician Grade-III

	) 525-825)		
v.	510-940	1350-2400	Technician Grade-II
vi.	570-1080)) 600-1000)	1410-2400	Technician Grade-I

26.5 *The designations suggested have a general connotation and the specific trade of the technician can be mentioned in brackets.*

26.6 *As observed above, at present, different qualifications have been prescribed for the posts in the same scales of pay. Rules have not been framed for such staff in most of the departments and adhocism prevails in recruitment and promotions. We have discussed the matter with the Director of Industrial Training also. He has informed that for most of the technical trades, 2/3 years certificate courses are conducted in I.T.I. Under one pattern, the minimum qualification prescribed for admission to all certificate courses in matric and no course is now of less than two years duration. In order to standardize the qualifications, mode of recruitment and promotional channels, we suggest that provisions on the following pattern may be incorporated in the rules: -*

Sr. No.	Revised Designation and revised scale of pay	Suggested mode of recruitment	Suggested qualification for direct recruitment.
i.	Helper (810-1440)	Direct recruitment	Under Matric with knowledge of trade concerned.
ii.	Junior Technician (950-1800)	(a) Direct Recruitment-75% (b) Promotion from Sr.No.(i) above 25%	Matric with 2/3yrs National Trade Certificate/National Apprenticeship Certificate in the trade Concerned.
iii.	Technician Grade-IV (1025-1800)	(a) Direct Recruitment-50% (b) Promotion from Sr.No. (ii) above 50%	Matric with 2/3yrs National Trade Certificate/National Apprenticeship Certificate with two Years experience as Junior Technician

			<i>under Government or in some Semi-Govt. Organization.</i>
iv.	<i>Technician Grade-III (1200-2100)</i>	<i>(a) Direct Recruitment-25%</i>	<i>Matric with 2/3yrs National Trade Certificate/National</i>
		<i>(b) Promotion from Sr.No. (iii) above 75%</i>	<i>Apprenticeship Certificate with five years experience as Junior Technical/ Technician Grade-IV under Govt. or in some Semi-Govt. Organization.</i>
v.	<i>Technician Grade-II (1350-2400)</i>	<i>(a) Promotion from Sr. No. (iii) above 75%</i>	<i>Matric with 2/3yrs National Trade Certificate/National</i>
		<i>(b) Direct Recruitment-25%</i>	<i>Apprenticeship Certificate with 7 yrs. experience as Technician Grade-IV or Technical Grade - III in the Trade concerned of which at least three years should be as Technician Grade-III under the Govt. or in some Semi-Govt. Organization.</i>
vi.	<i>Technician Grade-I (1400-2460)</i>	<i>(a) Promotion from Sr. No. (v) above 50%</i>	<i>Matric with 2/3yrs National Trade Certificate/National</i>
		<i>(b) Direct Recruitment-50%</i>	<i>Apprenticeship Certificate and 7 years experience as Technician Grade-II or Technician Grade - III out of which three years should be as Technician Grade-II under the Govt. or in some Semi-Govt. Organization.</i>

26.8 Department shall have posts of skilled and semi-skilled staff of such levels only as are actually needed. The mode of recruitment suggested

by us would need suitable modification in the light of the hararchication levels existing in each department.

11. After a bare reading of the aforesaid recommendations, it is apparent that the pay commission has not limited its recommendations to the Urban Development Department alone, but it mentions Departments of Irrigation, PWD (Public Health), Transport Department, Printing and Stationery Department. The mentioning is only by way of “example” and the tenor of the recommendations is apparently for all the Departments and cannot be limited to the mentioning of the Departments in the preliminary Para 26.1. In other words, the recommendations are not exclusive to the Departments mentioned by way of example in para 26.1, moreso, as the tenor further recommends in Para 26.6 and 26.8, referred to above, to particular Departments wherever there is skilled and semi-skilled staff employed. The contentions of the respondents that 3rd Pay Commission recommendations would not be applicable to the Department of Health and Family Welfare are, therefore, found to be wholly misconceived and a wrongful interpretation of the recommendations as well as the order passed by the State Government on 26.10.1988.

12. The respondents were, therefore, obliged to take up the matter relating to amendment of the relevant Service Rules for providing channel of promotion to the skilled and semi-skilled staff and accordingly also make appropriate re-designations of the posts. However, it appears that the respondents have failed to exercise their duty which has prompted the petitioners to approach this Court by way of this Writ Petition.

13. While this Court is fully conscious that a Writ would not lie for directing the respondents to grant a particular pay to a particular individual holding a particular post, directions for implementation of the 3rd Pay Commission recommendations, having been already issued by the State Government, would be binding on the Department of Health and Family Welfare.
14. This Court, therefore, issues directions to the respondents to take immediate steps for necessary amendments in the Rules in terms of the 3rd Pay Commission and grant relief to the petitioners accordingly.
15. The exercise shall be done within six months henceforth.
16. The Writ Petition is allowed to the aforesaid extent.
17. Pending application(s), if any, stand disposed of accordingly.

August 23, 2023
Ess Kay

[SANJEEV PRAKASH SHARMA]
JUDGE

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	/	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	/	<i>No</i>