

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-19787-2013 (O&M)
Date of Decision:03.10.2023

BHAVJIT SINGH AND OTHERSPetitioners
V/s.
STATE OF PUNJAB AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

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

Ms. Shivani Sharma, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J. (Oral)

1. On 05.03.2020, this Court has observed as under:-

“Reply by way of affidavit of the Director, Health Services (Family Welfare), Punjab, Chandigarh dated 03.03.2020 filed in Court, is taken on record. Copy supplied to the counsel for the petitioner.

“Petitioners have approached this Court with the grievance that despite their claim having been recommended by the Director, Health Services (Family Welfare), Punjab on 08.12.2011 (Annexure P-10) with regard to the removal of the anomaly in respect of the employees working on the post of Artist-cum-Photographers, wherein, it has been asserted that the post on which they are working initially in the pay scale has been mentioned in paragraph no.5 of the writ petition in a tabulated form, which reads as follows:-

Qualification at the time of appointment	Pay scale as per pay commission report of 01.01.1978		Pay scale as per pay commission report of 01.01.1986		Pay scale as per pay commission report of 01.01.1996		Pay scale as per pay commission report of 01.01.2006	
+2 & 5 years B.F.A professional degree which has been declared as Master Degree (P-3)	Pay scale given	Pay scale admissible as per prerevised 250-550	Pay scale given	Pay scale admissible as per prerevised	Pay scale given	Pay scale admissible as per pre-revised scale 2200-4000	Pay scale given	Pay scale admissible as per pre-revised scale 7220-11660

	620- 1200	825-1580	1500- 2640	2200- 4000	5800- 9200	7220- 11660	10300- 34800 +3800 G.P..	10300- 34800 +5000 G.P
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The claim, therefore, which has been made by the petitioners in their representation, was found to be justified and, accordingly, the recommendation was made by the Director, to the effect that they should be granted pay scale of 10300-34800+5000 Grade Pay w.e.f. 01.01.2006. When the said recommendation was not decided by the Government, an order dated 11.09.2017 was passed by this Court according to which the respondents were required to file an affidavit.

Prior to that it so happened that a speaking order was passed by the Director, Health Services (Family Welfare), Punjab on 16.01.2013 relying upon the instructions of the Govt. of Punjab dated 23.05.2012 holding that the recommendation made by the Director being not covered by the said letter, the matter cannot be referred to the Finance Department. It would not be out of way to mention here that this order has again been passed by the Director himself without the competent authority i.e. the State having decided the issue which was earlier recommended by him.

It is in the light of this factual position, when the respondents were called upon to file an affidavit, the Director, Health Services (Family Welfare), Punjab, has again filed an affidavit dated 03.03.2020 taking the same plea. The said stand of the respondents is unacceptable. Therefore, direction is issued to the competent authority to consider the recommendation made by Director, Health Services (Family Welfare), Punjab dated 08.12.2011 (Annexure P-10) and pass a speaking order with reference to the reasoning and the recommendation given by the Director, Health Services (Family Welfare), Punjab.

The decision so taken be placed on the record on or before the next date of hearing.

List again on 11.05.2020.”

2. Learned State counsel has pointed out that the State Government has examined all the aspects and has reached to a conclusion that the said claim of the petitioner is not made out. The cadres of the Boards, Corporations and Universities cannot be compared with the cadres of Government departments and the matters regarding pay anomaly and other related matters are to be considered by the Pay Commission. Therefore, the demanded pay scale cannot be granted to the petitioner. The decision of the State Government dated 24.03.2021 has been produced by the Learned State counsel in the Court today and the same is taken on record.

3. Keeping in view the said decision, this Court finds that no further directions need be passed in the present case. The claim of the petitioner for granting higher pay scale having been examined at the level the Government which is the final authority to take decisions relating to grant of pay scales, which is purely an administrative action. No further judicial review is required to be done. In view, thereof the Writ Petition is dismissed. However, dismissal of this Writ Petition would not prevent the petitioners from taking up the matter before the Pay Commission or to raise an Industrial Dispute, if so required.

4. All pending applications in this Writ Petition shall stand disposed of accordingly.

October 3, 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>