

2023:PHHC:146870
CWP-22100-2013 (O&M)
Date of Decision: 20.11.2023

Jagjit Singh and others

...Petitioners

Vs.

State of Punjab 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)

CM-12253-CWP-2018

CM stands disposed of in terms of earlier order passed on 11.08.2023.

CWP-22100-2013

1. The petitioners by way of this writ petition have prayed for grant of pay scale equal to that of Placement Officers of the Department of Technical Education, Punjab, w.e.f. 01.12.2021 on the ground that both categories of posts were getting the same pay scale from 01.01.1986 and even as per the 5th Punjab Pay Commission recommendations, same pay scale was assigned to both the categories. However, a diversion has been created from 01.12.2011 by issuing notification dated 21.12.2011, whereby the grade pay of the Placement Officers has been increased to Rs.6600/- in the pay band of Rs.15600-39100 while for the petitioners i.e. District Treasury Officers, grade pay of Rs.5400/- has been issued in the same pay band.

2. Learned counsel submits that there was no occasion not to increase the grade pay of the petitioners once the grade pay of the Placement Officers has been increased to Rs.6600/-. Learned counsel submits that as per the historical precedents, the pay scale of the petitioners was similar to the pay scale of the Placement Officers under the various revised pay scale rules and a departure has been made only by issuing notification dated 21.12.2011, which cannot be accepted and the petitioners would be entitled to the same grade pay as being provided to the Placement Officers. Learned counsel relies on the recent decision of the Hon'ble Supreme Court in the case of **Union of India vs. D.G.O.F. Employees Association and another**, Civil Appeal No.1663 of 2016, decided on 09.11.2023.

3. Learned State counsel submits that the post of District Treasury Officer is a different post altogether from that of Placement Officer. The services are in different departments of State Government while District Treasury Officer functions under the Department of Finance Treasuries and Accounts and the said post is governed by different departmental service rules where the qualification, duties, functions, responsibilities and mode of recruitment is dissimilar to that of Placement Officer, who functions under the State Industrial Training Department. The claim for parity and equality of pay scale cannot be made out. Although, as per the various pay commissions, same pay scale was granted but same would alone not be a reason to claim pay parity. Learned counsel submits that as per the 5th Pay Commission, the post of Placement Officer was also initially granted grade pay of Rs.5400/- but the Cabinet has after considering the requirement of the post and the recommendations of the Sub-Cabinet Committee on the demands of the concerned Placement Officers, enhanced the grade pay to Rs.6600/-, vide

notification dated 15.12.2011 and 21.12.2011. It is also stated as per reply that the request of the petitioners for grant of scale equal to the Placement Officers is under consideration and the same has been decided to be placed before the next pay commission in accordance with the government instructions dated 15.10.2012. The said instructions have also been placed on record by the respondents.

4. Having noticed the aforesaid submissions, this Court finds that so far as the judgment passed in Union of India's case (supra), the same relates to similar post of employees working in the various sections of the Armed Forces. The Delhi High Court in Writ Petition No.4606 of 2013, had considered the fact that the post of LDCs, UDCs, Assistants/PAs and Stenographers were getting the same pay scale even prior to 01.01.1986, held the pay scale as discriminatory. The Hon'ble Supreme Court on the facts of the said case observed as under:-

“14. As noted by the High Court, it is evident that parity of pay scales vis-à-vis LDCs, UDCs, Assistants/PAs and Stenographers, was maintained even prior to 01.01.1986 under the Third Central Pay Commission recommendations (for the period of 01.01.1973 to 31.03.1985). This parity was continued in the Fourth Central Pay Commission recommendations (with effect from 01.01.1986 to 31.12.1995) and the Fifth Central Pay Commission recommendations (for the period 01.01.1996 to 14.09.2006). The post of Assistants, PAs and Stenographers is governed by Director General Ordnance Factories Headquarters Civil Service Rules, 1977.

15. Be that as it may, in the present facts the perusal of the judgment passed by the High Court impugned herein would indicate that the High Court having kept in view the legal, as well as the factual aspects, has not proceeded in a manner so as to equate two sets of employees in different organizations. But,

keeping in view the recommendation of the Pay Commission and the applicability of the pay scales recommended to similarly placed employees employed in the headquarters and on noticing discrimination despite historical similarity has merely rectified the error, which does not call for interference.

16. In view of the above, the appeal being devoid of merit, stands dismissed with no order as to costs.”

5. In the present case, the posts are different. Parity in the pay scale on the basis of recommendations made earlier by the pay commission would not be available to the petitioners. However, it is always available for the pay commission to revise the grade pay since the State Government has already made recommendations. It is also left open for the petitioners to pursue their case before the pay commission which alone can enhance the grade pay of the petitioners. This Court would be slow in directing the State Government for a higher grade pay as the same is a purely administrative decision to be taken at the level of the State Government alone.

6. In view thereof as also in view of the decision passed by the Hon'ble Supreme Court in the case of **Karnataka Power Transmission Corporation Ltd. vs. Sri B.G. Manmohana Priyanka and others 2023 (3) Scale**, the writ petition stands dismissed.

7. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

20.11.2023.

rajesh

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No