

209 IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP-17939-2016

Date of Decision: 19.09.2023

Pargan Singh and another

...Petitioners

VERSUS

State of Punjab and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA.**

Present: Mr. C.L. Sharma, Advocate for the petitioners.

Ms. Shivani Sharma, DAG, Punjab.

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**SANJEEV PRAKASH SHARMA, J.(ORAL)**

1. The petitioners by way of the this petition have prayed for grant of revised pay scales by granting the benefit of higher pay scale on completion of 4/9/14 years of service and accordingly to pay the revised pension.
2. Learned counsel submits that the petitioners are entitled for higher pay scales on completion of 4/9/14 years of regular service as has been granted to other similarly situated employees. Learned counsel submits that the petitioners' service record has been clean throughout and there is no adverse remark to their discredit and the action of the respondents in denying the petitioners benefit of higher pay scales is wholly arbitrary and illegal. Learned counsel submits that the petitioners along with other employees of the department had earlier preferred a writ petition before this Court bearing CWP-23138-2010, wherein this Court passed an order dated on 05.01.2012, directing

the respondents to consider their cases for grant of higher pay scales, in accordance with rules. Based on the said directions, several other persons who were petitioners along with the petitioners, were granted the benefit of higher pay scales vide order dated 27.03.2015 but the petitioners herein were left out. Accordingly, they have preferred this petition before this Court again with the prayer as noticed above.

3. Learned DAG, Punjab, on the other hand, has submitted that grant of higher pay scale on completion of 4/9/14 years of regular service is not automatic and for the said purpose, the State Government issued a notification on 17.04.2000, laying down a criteria for assessing the work and conduct for the purpose of placement in the higher pay scales on completion of 4/9/14 years of service. The said notification struck instructions issued by the State government and provides that an employee must be otherwise suitable and must have a satisfactory service to his credit and he ought to have good record and a good record has been explained to me that a person must possess 50% ACRs as good for the last three years, out of which, there should be at least two good ACRs and benchmark is that of average for grant of the benefit of higher pay scale. Learned counsel submits that the record of the petitioners is not of such a nature, where the petitioners could be granted the benefit.

4. I have considered the submission and carefully perused the reply filed by the respondents and find that the respondents have in their reply placed on record complete ACR reports of both the petitioners. It is submitted in para No.5 on merits as under:-

*“That the contents of this para are denied. That in reply to this para, it is humbly submitted that the case of the petitioner was*

*considered in view of the Punjab Government Instructions No.7/60/2006-5PP.1/1876 dated 20.12.2011 and 17.04.2020. Relevant para of para No.5 and 9 of these instructions is reproduced as under:-*

*(5) The procedure for assessing the work and conduct for placement in the higher scale shall be the same as applicable to a case of promotion. The placement in higher pay scale shall only be given to those employees whose overall service record during the sphere of satisfactory service, is adjudged as good and the employees is otherwise suitable for promotion. ‘Good’ record means that more than 50% annual confidential report are good and out of last three years, at least two are good. For all the remaining years the bench mark may be ‘average’.*

*(9) In case an employee is found unsuitable for the grant of higher scale on a particular date, his case should be reviewed on year to year basis and he shall be allowed the higher scale on being found suitable for the higher scale from the due date as per the procedure stated in para No.7. The competent authority shall, however, ensure that the number of employees in the higher scale does not exceed the percentage, wherever prescribed at any time.*

*The petitioner does not fulfill the conditions mentioned in the above said instructions. They are not determined of 50% good ACR. The summary of the ACR of both petitioners is reproduced below:-*

*1. Pargan Singh*

| <i>Sr. No.</i> | <i>Year</i>    | <i>Status ACR’s Report</i> |
|----------------|----------------|----------------------------|
| <i>1.</i>      | <i>1979-80</i> | <i>No Report.</i>          |
| <i>2.</i>      | <i>1980-81</i> | <i>No Report.</i>          |
| <i>3.</i>      | <i>1981-82</i> | <i>No Report.</i>          |
| <i>4.</i>      | <i>1982-83</i> | <i>No Report.</i>          |

|     |           |            |
|-----|-----------|------------|
| 5.  | 1983-84   | No Report. |
| 6.  | 1984-85   | No Report. |
| 7.  | 1985-86   | No Report. |
| 8.  | 1986-87   | No Report. |
| 9.  | 1987-88   | No Report. |
| 10. | 1988-89   | No Report. |
| 11. | 1989-90   | No Report. |
| 12. | 1990-91   | No Report. |
| 13. | 1991-92   | No Report. |
| 14. | 1992-93   | No Report. |
| 15. | 1993-94   | No Report. |
| 16. | 1994-95   | No Report. |
| 17. | 1995-96   | No Report. |
| 18. | 1996-97   | No Report. |
| 19. | 1997-98   | No Report. |
| 20. | 1998-99   | No Report. |
| 21. | 1999-2000 | No Report. |
| 22. | 2000-01   | Good       |
| 23. | 2001-02   | No Report. |
| 24. | 2002-03   | No Report. |
| 25. | 2003-04   | Average.   |
| 26. | 2004-05   | Very Good. |
| 27. | 2005-06   | Very Good. |

|     |         |            |
|-----|---------|------------|
| 28. | 2006-07 | Very Good. |
| 29. | 2007-08 | Very Good. |

2. Jagbir Singh

| Sr. No. | Year    | Status ACR's Report | Remarks |
|---------|---------|---------------------|---------|
| 1.      | 1979-80 | No Report.          |         |
| 2.      | 1980-81 | No Report.          |         |
| 3.      | 1981-82 | No Report.          |         |
| 4.      | 1982-83 | No Report.          |         |
| 5.      | 1983-84 | No Report.          |         |
| 6.      | 1984-85 | No Report.          |         |
| 7.      | 1985-86 | No Report.          |         |
| 8.      | 1986-87 | No Report.          |         |
| 9.      | 1987-88 | No Report.          |         |
| 10.     | 1988-89 | No Report.          |         |
| 11.     | 1989-90 | No Report.          |         |
| 12.     | 1990-91 | No Report.          |         |
| 13.     | 1991-92 | No Report.          |         |
| 14.     | 1992-93 | No Report.          |         |
| 15.     | 1993-94 | No Report.          |         |
| 16.     | 1994-95 | No Report.          |         |
| 17.     | 1995-96 | No Report           |         |

|     |           |           |                                  |
|-----|-----------|-----------|----------------------------------|
| 18. | 1996-97   | Good      |                                  |
| 19. | 1997-98   | Average   |                                  |
| 20. | 1998-99   | Good      | Written by the Reporting Officer |
| 21. | 1999-2000 | Good      | Written by the Reporting Officer |
| 22. | 2000-01   | Good      |                                  |
| 23. | 2001-02   | Good      |                                  |
| 24. | 2002-03   | No report |                                  |
| 25. | 2003-04   | Good      |                                  |
| 26. | 2004-05   | Good      |                                  |
| 27. | 2005-06   | Very Good |                                  |

5. From the perusal of the aforesaid table, it appears that from the year 1979-80 upto 1999-2000, there is no report available in respect of petitioner No.1, Pargan Singh. From 2000-2021 onwards upto 2007-2007, in case of petitioner No.1, Pargan Singh, there are four very good, one is good report and only one is average of the year 2003-2004. Thus, he has more than 50% good or very good reports and other three reports are also very good. Similarly, petitioner No.2, Jagbir Singh, there is no report available from the year 1979-1980 upto 1995-1996. However, from 1996-1997 onwards upto 2005-2006, there are seven good reports, one very good and there is only average remark for the year 1997-1998. Thus, this Court finds that he too possesses more than 50% good record and there is no adverse record to his discredit.

6. In view thereof, this Court finds that the respondents have not applied their mind to the service record of the petitioners in correct perspective and it is a case of complete ignorance to the service record of the petitioners. The denial, therefore, is held to be illegal and arbitrary. The petitioners are held entitled for benefit of grant of higher pay scale on completion of 4/9/14 years of service and accordingly, the writ petition is allowed and the respondents are directed to make pay fixation of the petitioners within three months and grant the arrears to the petitioners along with interest at the rate of 9% per annum. Thereafter, the pension of the petitioners shall be re-fixed upon re-affixation of the pay, after granting benefit of 4/9/14 years higher pay scale. The revised pension and other retiral benefits including gratuity and leave encashment etc. would be calculated accordingly and paid to the petitioners along with interest at the rate of 9% per annum. The entire exercise shall be completed positively within three months, failing which, the petitioners shall be at liberty to initiate contempt proceedings, without further reference to the Court.

19.09.2023  
rajesh

**(SANJEEV PRAKASH SHARMA)**  
**JUDGE**

|                           |   |        |
|---------------------------|---|--------|
| Whether Reportable        | : | Yes/No |
| Whether Speaking/Reasoned | : | Yes/No |