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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2023:PHHC:132294
CWP-22720-2014 (O&M)
Date of Decision: 11.10.2023

Mewa Singh and others

...Petitioners

Vs.

State of Punjab and others

...Respondents

CORAM: HON’BLE MR. JUSTICE SANJEEV PRAKASH SHARMA

Present Mr. R.S. Manhas, Advocate for the petitioners.

Ms. Shivani Sharma, DAG, Punjab.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The petitioner claims benefit of the circular/letter issued by the State Government dated 04.02.1969, whereby it was proposed to evolve common categories in order to assess the skill proficiency of the workers in the Work Charge Establishment.
2. The Commission categorized the technicians in six different categories granting them different pay scales in accordance with their educational qualification and all the six categorization of the technicians along with their pay scales are as follows:-

Category-I	No academic or technical qualification but a certain amount of experience, which would enable handling of minor technical work on instance of qualified technicians.	Rs.80-120
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Category-II	Middle pass with one year's trade certificate of the ITI or any other recognized institute	Rs.100-160
Category-III	Middle pass with two years certificate course of Matriculation with one year's ITI or any other recognized institute	Rs.120-250
Category-IV	Matriculation with two years technical training in the ITI or any other recognized institute	Rs.140-300
Category-V	Matriculation with three years trade certificate course, it may include between one or two years of the practical courses followed by apprenticeship training of 2 or 1 year duration so as to make the total number of years spent in the training three years.	Rs.160-400
Category-VI	Matriculation with diploma of three years duration in the polytechnical or equivalent	Rs.200-450 (10% selection grade if called for).

3. Learned counsel for the petitioner submits that the petitioners had joined as daily wagers on muster roll for the period 1989-1995 and,

therefore, they would be on work charge establishment during the said period and as they possessed the educational qualification as meant for Category-IV above, they should have been placed in the pay scale of Rs.140-300/- or equivalent pay scale at the time of their appointment. Learned counsel relies upon the judgment passed in the case of **Rajender Paul Gautam and others vs. State of Punjab and others, CWP-10759-1990, decided on 30.05.2008,** wherein this Court had observed as under:-

“After hearing the learned counsel for the parties and taking into account the fact that the pay scales have been linked since 1969 with the educational qualification and all other categories like Fitter, Electrician, Carpenter, Mason, Operator, Drivers, Well-Borer and Rock-Driller etc. have been granted the benefit of higher pay scale of Rs. 140-300, there is no reason to segregate the category of the petitioners for refusing grant of higher pay scale of Rs.140-300. Such a segregation would not was in somewhat similar circumstances in Parshottam Lal's case (supra) when the report of the 2nd Pay Commission in respect of certain posts was not implemented whereas it was given effect in respect of other categories then in paras 15 and 16 of the judgement, their Lordships observed as under”-

15. Mr. Dhebar contends that it was for the Government to accept the recommendations of the Pay Commission and while doing so to determine which categories of employees should be taken to have been included in the terms of reference. We are unable to appreciate this point. Either the Government has made reference in respect of

all Government employees or it has not. But if it has made a reference in respect of all Government employees and it accepts the recommendations it is bound to implement the recommendations in respect of all Government employees. If it does not implement the report regarding some employees only it commits a situation. This is what the Government has done as far as these petitioners are concerned.

16. The learned counsel next contends that there has been great delay in bringing this petition and we should not exercise our discretion. There has been some delay but on the facts of this case we are of the opinion that there has not been undue delay, especially as in his letter dated March 23, 1967 the President, Forest Research Institute and Colleges said that the points were being examined and if necessary the Ministry would be consulted.

The afore-mentioned view has been followed and applied in the cases of State of Haryana v. Haryana Civil Secretariat Personal Staff Association (2002) 6 SCC 72 and Laljee Dubey v. Union of India (1974) 1 SCC 230.

When the facts of the present case are examined in the light of the principles laid down by Hon'ble the Supreme Court it becomes evident that the category of Pump Operators cannot be picked up for hostile discrimination when all other categories with qualification of matriculation and ITI have been granted the pay scale of Rs.140-300 deserves to be granted to the

petitioners provided they have qualification of two years diploma of ITI with matriculation.

In view of the above, the writ petition is allowed. The petitioners who have qualifications of ITI of two years diploma course with matriculation and have been working on the post of Pump Operators are held entitled to the pay scale of Rs.140-300 w.e.f. the date they have joined the service. Their pay shall be fixed in the scale of Rs.140-300 from the aforementioned date but the arrears would be restricted to a period of 38 months preceding the date of filing of the petition which has been filed on 8.8.1990. We make it clear that those petitioners who do not possess the qualification of two years ITI diploma course and matriculation would not be entitled to the afore-mentioned relief.”

4. Learned counsel submits that while the respondents in their reply have granted the petitioners the said benefit upon promotion to the post of Fitter, but they were entitled to be given the said benefit even when they were regularized on the lower post of helper.

5. I have considered the submission.

6. Admittedly, the petitioners were working on daily wagers on muster roll from the year 1989 to 1995. Subsequently, the services of the petitioners were regularized on 24.05.2011, as Group-D employees and placed in the seniority list of Fitter Helpers. They were granted the pay scale of Rs.4900-10680 with Grade Pay of Rs.1300/- from 24.05.2011 and grade pay of Rs.1650/- w.e.f. 01.12.2011, as sanctioned by the government. Upon being further promoted as Fitters as per their seniority they have been placed

in the pay scale of Rs.5910-20200+2400 grade pay prescribed for the post of Fitter, which is an equal pay scale to that of 140-300/-, as was available in the year 1969. The scheme of granting the pay scale solely on the basis of educational qualification is apparently not existed. It is with reference to the post that the pay scales are recommended by the Pay Commission. In view of the fact that the petitioners were taken on rolls as Fitter Helpers upon regularization under the service rules, where there is a channel of promotion to the post of Fitter on the basis of seniority and qualification and on availability of vacant post, the pay scale of higher post of Fitter has not been granted to them while being regularized on the lower post of Fitter Helper, even if they possessed a higher qualification. The scheme as noticed in the judgment (supra) would, therefore, have no application to the facts of the present case.

7. The relief has adequately been granted to the petitioners, therefore, they do not deserve any other relief from previous date.

8. The writ petition is found to be devoid of merit and is accordingly dismissed.

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

(SANJEEV PRAKASH SHARMA)
JUDGE

11.10.2023
rajesh

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