

2023:PHHC:083410

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. CWP-4095-2015 (O&M)

Santokh Singh and others

....Petitioners

Versus

State of Punjab and others

..Respondents

2. CWP-6234-2015 (O&M)

Prem Kumar

....Petitioner

Versus

State of Punjab and others

..Respondents

3. CWP-25825-2015 (O&M)

Kamla

....Petitioner

Versus

State of Punjab and others

..Respondents

Reserved on : 19.04.2023

Date of decision: 03.07.2023

CORAM: HON'BLE MR JUSTICE ANIL KSHETARPAL

Present:- Mr. V.B.Aggarwal and
Mr. Vivek Aggarwal, Advocate for the petitioners

Mr. R.K.Kapoor, Addl. AG, Punjab

ANIL KSHETARPAL, J

1. With the consent of the learned counsel representing the parties, a batch of three connected writ petitions i.e CWP-4095-2015, 6234-2015 and 25825-2015 shall stand disposed of by a common order.
2. The relevant facts are being noticed from the lead case i.e CWP-4095-2015 (Santokh Singh and others vs. State of Punjab and others)
3. The petitioners pray for the following substantive reliefs:-

“ii) to issue a writ in the nature of Mandamus directing the respondents to grant the benefit of Rule 8 of Punjab Civil Services (Revised Pay) Rules, 1988, by virtue of the notification dated 3.5.91 Annexure P-2 in view of the decision in a case titled as Ram Murti etc. Vs. State of Punjab etc. - CWP No. 15920 of 1995 decided on 13.2.96 w.e.f 1.1.86 and revised/higher pay scale and selection grades to the petitioners in terms of the policy of Revised Pay Scale Rules, 1998 of Govt. of Punjab issued from time to time as allowed to the employees working in the workshops and in other depots of the State of Punjab alongwith the interest @ 12% per annum from the due date and the petitioners may also be held as entitled for all consequential benefits with interest; and also to grant the pay scale of Rs.4550-7220 to TG-I-Petitioners No.1 & 2 and Rs.4400-7000 instead of Rs.4020-6200 to the petitioner No. and arrears on this count alongwith interest thereon, in the interest of justice.”

4. As per the case of the petitioners, they were appointed on different posts on the different dates in the Punjab Roadways, Jalandhar/Hoshiarpur. Initially, they were appointed as the Assistant Carpenters, Assistant Welder, Assistant Painter and were subsequently

promoted from time to time. All the petitioners were appointed between the period from 1979 to 1985. From the reading of the prayer, it is evident that the petitioners rely upon an order passed by the Division Bench in **Ram Murti and others vs. State of Punjab and others (CWP-15920 of 1995 decided on 13.02.1996)**, which is extracted as under:-

“The petitioners, who are employee of the Punjab Roadways, have prayed for issuance of directions to the respondents to grant them the benefit of enhanced pay scales w.e.f 1-1-1986 instead of 3.11.1989. In support of their claim, the petitioners have placed reliance upon the decision in Haryana Adhyapak Sangh vs. State of Haryana etc. AIR 1988 SC 1663 as also a Division Bench judgment of this Court in Haryana State Biological Association vs. State of Haryana and others 1994 (2) SLR 389.

Claim of the petitioners for grant of higher pay scale has not been seriously contested. It is, however, submitted that as the pay scales of the petitioners have already been revised w.e.f. 3-11-1989, they are not entitled to the grant of the relief as prayed, since they did not take any action after they were not given the enhanced pay scales in the year 1986. It is further submitted that the relief, if any, be moulded in such a way that the State exchequer is not be unnecessarily burdened.

In view of the pleadings of the parties and the settled position of law on the basis of the judgments relied upon by the petitioners, the present petition is disposed of with the direction that the petitioners shall be deemed to have been granted the revised pay scales w.e.f 1-1-1986 instead of 3-11-1989. However, they shall not be paid the

arrears of t he difference of pay-scales but will be entitled to all other consequential benefits.”

5. It is evident from the reading of the aforesaid judgment that the only matter in dispute in the aforesaid writ petition was for the grant of the benefit of enhanced pay scale with effect from 01.01.1996 instead of 03.11.1989. The writ petition was allowed due to lack of opposition.

6. In the present case, the petitioners apart from relying upon the judgment passed in **Ram Murti’s case (supra)** have also challenged the correctness of the notification issued with the consent of the Hon’ble President of India on 03.05.1991. By way of the aforesaid notification, ‘Part B of the Second Schedule of the notification dated 20.01.1989, was amended in the following manner:-

“In the said notification dated the 20th January, 1989, in Part ‘B’ of the Second Schedule, in the Table under the heading, II): TRANSPORT :-
(a) for serial No.4, and the entries relating thereto, the following shall be deemed to have been substituted with effect from the 1st day of January, 1986, namely:-

Sr. No.	Post	Existing Scale in Rs.	Revised Scale in Rs.	Remarks
1.	2.	3.	4.	5.
4(i)	Conductors	Rs.400-600 Rs.450-700 (Selection Grade)	Rs.950-1800 (with an initial start of Rs.1000.	(Sr. Scale of Rs. (1200-2100 to 50% of the posts of (Conductors/Add (Conductors)
(ii)	Add Conductors	Rs.100-600 Plus Rs.25 special pay Rs.450-600.	Rs.950-1800 (with initial start of Rs.1000/-) (Selection Grade) plus Rs.25 special pay.	Booking Clerks and;
(iii)	Booking Clerks	Rs.400-600	Rs.950-1800 (with an initial	

start of Rs.1000/-)

(b) for serial Nos.7, 8, 9, 10 and 11, and the entries relating thereto, unless otherwise provided, the following shall be deemed to have been substituted with effect from 1st day of January, 1986, namely:-

Sr. No.	Post	Existing Scale in Rs.	Revised Scale in Rs.	Remarks
1.	2.	3.	4.	5.
7	Head Mechanic-39 Head Electrician 20.	510-940 570-1000 (Selection Grade)	1350-2400 1400-2460 w.e.f. the 3 rd day of November 1989.	To be redesignated as Tech. Grade I
8(i)	Mechanic-263 Machinist-7 Calibrator/ Nozel Grinder-7 Mechanic-6, Borer-10.	450-800 510-880 (Selection Grade)	1200-2100 1350-2400 w.e.f. the 3 rd day of November 1989.	To be redesignated as Tech. Grade-II
(ii)	Electrician-60 Radiator Repairer-6 Blacksmith-18 Welder-13, Tyerman Fainter-18, Carpenter-18, Upholsterer-12.	400-660	950-1000 (with an initial start of Rs.1000/- 1350-2400 w.e.f. the 3 rd day of November, 1989.	To be upgraded as Technician Grade-II
9(i)	Mechanic-100	400-600	1200-2100	To be redesignated as Technician Grade-II
(ii)	Fitter-213 Turner-14, Electrician-61, Battery Attendant-15, Welder-22, Tyerman-45 Buferman-4, Boilder-Attendant-4, Painter-23, Carpenter-46, Upholster-20, Dent Ceater-1.	400-600	950-1800 (with an initial start of Rs.1000/-) 1200-2100 w.e.f. the 3 rd day of November, 1989.	To be re-designated as Tech. Grade-III
10(i)	Fitter-60	400-600	950-1800 (with an Initial start of Rs.1000/-)	To be redesignated as Tech. Grade-III w.e.f. the 3 rd of Nov. 1989.
(ii)	Assistant	400-600	950-1800	To be redesign-

	Fitter-304 Assistant		(with an initial start Rs.1000/-). 1200-2100	nated as Tech. Grade-III w.e.f 3 rd day of Nov. 1989.
	Assistant Electrician-82, Assistant Battery Attendant-9, Asstt. Radiator Repairer-21, Asstt. Blacksmith-86, Asstt. Welder-22, Asstt. Tyreman-44, Vulcanizer-3, Tinsmith-5.		with effect from the 3 rd day of Nov. 1989.	
	Assistant Bufferman-4, Assistant Boiler Attendant-4, Assistant Painter-28, Asstt. Carpenter-104, Asstt. Upholsterer-21.			
11.	Helper, Cleaner 325-495 -256 (who are Matriculates and Possess Industrial Training Instituted Certificates).	325-495	810-1440 950-1800 (with an initial start of Rs.1000) w.e.f. 3 rd day of Nov. 1989.”	to be redesignated as Jr. Tech.

7. Heard the learned counsel representing the parties at length and with their able assistance perused the paperbook.

8. Learned counsel representing the petitioners contends that the petitioners were entitled to the grant of two increments on each promotion even by re-designation in terms of Rule 8 of the Punjab Civil Services (Revised) Rules, 1988 (hereinafter referred to as ‘1988 Rules’), which were notified by the State Government on 09.09.1988. The petitioners have reproduced incomplete Rule 8 in the writ petition. The complete Rule 8 of 1988 Rules reads as under:-

“8. Fixation of Pay on Promotion:-

Notwithstanding anything contained in these rules, in case of promotion to a higher post effected after the date of publication of this notification in Punjab

Government Gazette the benefit of minimum two increments shall be given while fixing the pay in the scale of the higher post. The next increment in the scale of the higher post shall be allowed after the completion of twelve month's qualifying service in that scale.

Subject to the condition that no additional increment of proficiency step up is granted. The promotee can exercise option for fixation of his pay under clause – A or B of proviso 2nd to this rule but this proviso has been deleted with effect from 21-1-2003.”

9. It was not fair for the petitioners to reproduce an incomplete rule, as this could have mislead the court.

10. It is the stand of the respondents- State that the Punjab Roadways Workshop Staff was divided into five different categories as skilled and semi-skilled category for example Helper, Junior, Technician Grade II, Technician Grade I. It has further been submitted that the petitioners were accordingly designated in the aforesaid categories from time to time. The petitioners opted for the benefit of Proficiency Step Up on the completion of the 8 years in service and 16 years in service, which was granted to them. Thereafter, they opted for the conversion of the aforesaid benefit into 4, 9 and 14 years service under the new scheme with effect from 01.11.2006 which was also allowed. In these circumstances, the pay of the petitioners has not only been fixed but payments were also released. Hence, it is contended that the petitioners are not entitled to the additional increments in terms of first part of Rule 8 of the 1988 Rules.

11. Learned counsel representing the petitioners also rely upon the judgment passed in **Baldev Singh and others vs. State of Punjab CWP-**

2604-2003 decided on 28.07.2005. The Division Bench while allowing the writ petition quashed the impugned order passed on 24.01.2003 and directed the respondents that no recovery shall be made from the pay of the petitioners and their pay shall not be reduced. The judgment passed with respect to the employees of the Punjab Tubewell Corporation will not be applicable to the petitioners particularly in view of notification dated 03.05.1991. It may be noted here that although in the prayer clause challenge to the notification has not been reflected, however, on reading of para 8 of CWP-4095-2015, it is evident that the notification dated 03.05.1991 is claimed to be patently illegal, arbitrary, malafide and unconstitutional.

12. This Court has considered the submissions while analyzing the arguments of the learned counsels representing the parties. Once vide notification dated 03.05.1991 the previous notification issued on 20.01.1989 was amended with effect from 01.01.1996 for the employees of the transport Department and Punjab Roadways, the validity thereof is required to be examined. The petitioners have to establish as to how such notification is either in violation of the statutory service rules or there is failure on the part of the respondents to implement the same. Learned counsel representing the petitioners failed to draw the attention of the Court to both the eventualities.

13. As already noticed, the judgment passed in **Ram Murti's case** is not applicable as it only relates to the revision of pay scale with effect from 01.01.1986 instead of the year 1989.

14. Keeping in view the aforesaid facts and discussion, finding no merit, the writ petitions are dismissed. Moreover, the writ petitions were filed in the year 2015 whereas the petitioners seek relief w.e.f 01.01.1986.

Apparently, the writ petitions suffer from delay and laches. Learned counsel representing the petitioners failed to explain the reasons for such colossal delay of nearly three decades. Hence, additionally the writ petitions are liable to be dismissed on the ground of delay and laches as the petitioners have slept over their rights for such a long period.

15. All the pending miscellaneous applications, if any, are also disposed of.

03.07.2023
rekha
Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

(ANIL KSHETARPAL)
JUDGE