

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-7340 of 2015 (O&M)

Date of decision: 01.02.2023

Bhupinder Singh and others

..Petitioners

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Mandeep Kumar Dhot, Advocate
for the petitioners.

Mr. Charanpreet Singh, AAG, Punjab

ANIL KSHETARPAL, J(Oral)

C.M.No.16382 of 2022

1. For the reasons mentioned in the application, which is supported by an affidavit, the same is allowed.

2. With the consent of the learned counsels representing the parties, taken on Board for final disposal.

MAIN

3. The petitioners herein are working as the Work Munshis in the P.W.D. (B&R), Punjab. They pray for a direction to the respondents to remove the pay anomaly and grant them the pay parity with clerical staff posted in P.W.D. (B&R), Punjab.

4. The learned counsel representing the petitioners contends that upto the tenure of 5th Pay Commission, both the posts were placed in the same pay scale. The petitioners are being discriminated at this point in time.

5. On careful perusal of the detailed reply filed by the respondents, it is evident that the respondents after considering the nature of their job as

well as their qualifications, have prescribed the determined pay scale. It has been noticed that the cadre of the petitioners is different and separate from that of the Clerks posted in the P.W.D.(B&R).

6. Merely because two different cadres were placed in the same pay scale, at one point in time, is not sufficient to presume that there is equation of the posts and the employees of both the posts carry same duties and functions. The learned counsel representing the petitioners failed to draw the attention of the court to any conscious decision of the with regard to pay parity. Recently, the Supreme Court in **State of Bihar vs. Bihar Secondary Teachers Struggle Committee, Minger and others (2019) 18 SCC 301** laid down the following parameters to be taken care of before the Court accepts the applicability of the doctrine of “Equal Pay for Equal Work” in any particular case. The said parameters are extracted as under:-

“96.1 Analysis of the decisions referred to above shows that this Court has accepted following limitations or qualifications to the applicability of the doctrine of ‘equal pay for equal work’:-

96.1) The doctrine of ‘equal pay for equal work’ is not an abstract doctrine.

96.2) The principle of ‘equal pay for equal work’ has no mechanical application in every case.

96.3) The very fact that the person has not gone through the process of recruitment may itself, in certain cases, makes a difference.

96.4) The application of the principle of ‘equal pay for equal work’ requires consideration of various dimensions of a given job.

96.5) Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere.

96.6) Granting pay scales is a purely executive function and hence the court should not interfere

with the same. It may have a cascading effect creating all kinds of problems for the Government and authorities.

96.7) *Equation of posts and salary is a complex matter which should be left to an expert body.*

96.8) *Granting of pay parity by the court may result in a cascading effect and reaction which can have adverse consequences.*

96.9) *Before entertaining and accepting the claim based on the principle of equal pay for equal work, the Court must consider the factors like the source and mode of recruitment/appointment.*

96.10) *In a given case, mode of selection may be considered as one of the factors which may make a difference.”*

7. Keeping in view the aforesaid facts and discussion, this court does not find it appropriate to exercise the extraordinary writ jurisdiction.

8. Dismissed.

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

February 01, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*