

**CWP No.27104 of 2018 (O&M)
and other connected cases**

**2023:PHHC:099456
-1-**

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

**CWP No.27104 of 2018 (O&M)
Reserved on : 08.05.2023
Date of Order:05.07.2023**

Gurinderpal Singh and others

.Petitioners

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Krishan Singh Dadwal, Advocate
Ms. Neha Jain, Advocate,
for the petitioner(s) (in CWP-27104, 27852, 27638,
28632 of 2018).

Mr. Y.P.Singla, Advocate
for the petitioner (s) (in CWP-29817 of 2018)

Ms. Ishma Randhawa, Additional Advocate General, Punjab.

ANIL KSHETARPAL, J

1. With the consent of the learned counsels representing the parties, a batch of 5 connected writ petitions (details whereof are at the foot of the judgment) shall stand disposed of by a common order.

2. The petitioners in all the writ petitions are working on different posts in the Department of Animal Husbandry, Fisheries and Dairy Development, Punjab. They claim benefit of higher grades of pay on the analogy of identical categories of posts in the different departments of the Government of Punjab are drawing higher pay. In Civil Writ Petition No.27104 of 2018 (lead case) (Gurinderpal Singh and others vs. State of Punjab and others), the petitioners are working as Dairy Development Inspector Grade-I (pay scale Rs.10300-34800+3800 Grade Pay). They

claim the pay scale of Rs.10300-34800+5400 Grade pay) on the analogy that Agriculture Development Officers in the Department of Agriculture are getting higher pay.

3. In Civil Writ Petition No.27852 of 2018 (Jarnail Singh and others vs. State of Punjab and others) the petitioners are working as the Dairy Development Officers in the pay scale of Rs.10300-34800+4400 Grade Pay. They claim the pay scale of Rs.15600-39100+6600 Grade pay on the analogy of Agriculture Officers in the Department of Agriculture, Punjab are getting the same.

4. In Civil Writ Petition No.27638 of 2018 (Charanjit Singh and others vs. State of Punjab and others), the petitioners are working as Dairy Development Inspector Grade-II in the pay scale of Rs.10300-34800+3200 Grade Pay. They claim pay parity with that of Veterinary Inspector (Rs.10300-34800+4200/4800 Grade Pay), Food Inspectors (Rs.10300-34800+4200 Grade Pay) and Staff Nurse (Rs.10300-34800+4800 Grade Pay) working in the different departments in the State of Punjab.

5. In Civil Writ Petition No.28632 of 2018 (Dilbag Singh and others vs. State of Punjab and others), the petitioners are working as Deputy Director Dairy in the pay scale of Rs.10300-34800+5000 Grade Pay. They claim parity of pay with Chief Agriculture Officer working in the Department of Agriculture, Punjab, who are getting pay scale of Rs.15600-39100+8200 Grade Pay.

6. In Civil Writ Petition No.29817 of 2018 (Ashok Kumar and others vs. State of Punjab and otehrs), the petitioners are working as Dairy Field Assistants. They seek removal of alleged pay anomaly in their pay

scale viz-a-viz other similarly situated Group-C category of ministerial staff/operational staff/revenue staff of the Punjab Government.

7. The State while defending the petition has contended that the matter with regard to the parity of pay scale has already been raised before the Punjab 6th Pay Commission which is under active consideration.

8. Sh. K.S. Dadwal, the learned counsel representing the petitioners while referring to page 37 of the paper book of lead case i.e. CWP No.27104 of 2018, submits that upto the period of 3rd pay Commission, the pay scale of Dairy Development Inspector Grade-I was at par with Agriculture Development Officer (formally Agriculture Inspector). However, on implementation of 4th Pay Commission, different pay scales were recommended and paid. He submits that after the 5th Pay Commission although, pay scale of the category of the petitioners as well as Agriculture Development Officer was made similar i.e. Rs.10300-34800/-, however the Grade Pay of Rs.5000/- was granted to the Agriculture Development Officers, whereas Dairy Development Inspectors Grade-I were only granted Grade Pay of Rs.3800/-. Thereafter, once again the grade pay of Agriculture Development Officer was enhanced from Rs.5000/- to Rs.5400/-, whereas no such enhancement was granted to the category of the petitioners. The representation sent by the Association of the petitioners to the Chairman, Pay Commission, Punjab, for re-designation as Assistant Dairy Development Officer was favourably recommended but no action has been taken. While referring to the documents Annexures P-5, P-6, P-7, he submits that the respondents are not redressing the grievance of the petitioners. He also refers to the judgment passed in **Manmohan Singh and**

others vs. State of Punjab and others, (CWP No.7920 of 2013, decided on 01.02.2018) in support of his submissions. In the synopsis filed by the learned counsel representing the petitioners, the following contentions have been pressed:-

“There is no difference in the method of recruitment, eligibility, qualification, duties and responsibilities between the petitioners and Agriculture Development Officer. The pay scale is legitimate right of an employee and the same cannot be varied. Once the petitioners were granted pay scale in parity to the pay scale granted to the Agriculture Development Officer, however, at the subsequent stage, the petitioners have been put to loss and their pay scale as well as grade pay was not increased. Once all the departments had granted the approval for re-designation to the post of inspector grade-I to that of Agriculture Development Officer, then there was no reason to sit over the matter. Anomaly has to be removed from the date it has arisen, rather than from any subsequent date prospectively.”

He also relies upon the following judgments:-

“(1)Union of India and otehrs vs. Jagdish Pandey and others, 2010(3) SCT 495, (2) Rajbir Singh and others vs. Haryana State Electricity Board and others, 2009 (4) RSJ 125, (3) Pawan Kumar and another vs. MC Amritsar, 1991(2) SCT, 249, (4) Jaspal Singh and others vs. State of Punjab and another, (CWP No.18612 of 2013).”

9. On the other hand, the learned counsel representing the State while contesting the petitions has submitted that the nature of duties, method

of recruitment, channel of promotion, qualification/experience and the criteria laid down for promotion in respect of the petitioners of all the categories of as compared to the officials of the Department of Agriculture, Punjab, are altogether different. It is further contended that the 4th Pay Commission, after considering all aspects of the matter, recommended different pay scales which were accepted by the Government. The Punjab 5th Pay Commission, after considering all aspects in respect of each category of posts in different departments in the State of Punjab, recommended revision of pay scales of various categories of posts including that held by the petitioners. Moreover, the matter is under active consideration of the Punjab 6th Pay Commission, hence the writ petitions be dismissed.

10. This Court has heard the learned counsels representing the parties while perusing the respective synopsis and the paper books. At this stage, it is appropriate to take note of the fact that in a recent judgment passed by the Supreme Court in **State of Bihar vs. Bihar Secondary Teachers Struggle Committee, Munger and others (2019) 18 SCC 301** the Court has laid down the following parameters before a Court orders parity of pay scale in para 96 which reads 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."

11. The first judgment relies upon the learned counsel representing the petitioners in **Jagdish Pandey's case (supra)** is relating to grant of running allowance at the rate of 120 Kms per day. In the first round, the writ petition filed by the Tower Wagon Drivers employed in Indian Railways was allowed but subsequently the said scale was withdrawn and recovery notices were issued. In that context, the Calcutta High Court allowed the writ petition which was in appeal upheld by the Supreme Court. This judgment is decided in the peculiar facts of the case.

12. The next judgment relied upon by the learned counsel representing the petitioners is in **Rajbir's case (supra)**. The Full Bench has

considering the question that though the anomaly has been removed but from different date, such discrimination was held to be unjustified. The Full Bench granted declaration that once the anomaly has been rectified, the same is required from the date when such anomaly occurred and it cannot be from a future date. With highest respect, this judgment does not help the petitioners.

13. In Pawan Kumar's case (supra), the court found that the Building Inspectors have been designated as Section Officers (Building) who are claiming equation with the Section Officers working in the same Municipal Corporation. In that context the writ petition was allowed while relying upon the judgment passed in Kirpaljeet Vs. State of Punjab , 1987 (4) SLR 594. The aforesaid judgment cannot be applied particularly in view the judgment passed in State of Bihar (supra).

14. In Jaspal Singh and others (supra), the Court was considering the question of entitlement of pay scale of the post of Multipurpose Health Supervisors which was throughout less than the pay scales of Multipurpose Health Supervisors (Male), Assistant Malaria Officers and Assistant Unit Officers. While relying upon the judgment in Rajbir Singh's case (supra), the Court held that the removal of anomaly has to relate back to the creation of the anomaly. Hence, it is evident that the judgments relies upon by the learned counsels representing the petitioners do not support the case of the petitioners.

15. As regard the first argument of the learned counsel representing the petitioners, it may be noticed that the State of Punjab while filing the

detailed written statement has highlighted that there is a difference in nature of duties, method of recruitment, channel of promotions, etc. Hence, the Court in exercise of writ jurisdiction is not expected to enter into the arena of complex determination of pay scales which is for the expert bodies, namely Pay Commission or Anomaly Committee to decide. The Supreme Court in *The State of West Bengal and another vs. West Bengal Minimum Wages Inspectors Association and others (2010) 5 SCC 255* held that merely on the basis that an earlier point of time two posts were carrying the same pay scale would not mean that after implementation of the revision of pay scales they should be granted the identical revised pay scales. In *S.C.Chandra vs. State of Jharkhand, 2007 SCC 279*, the Court held that unless there is complete and wholesale identity, the proper forum is an expert body and not writ Court.

16. The correctness of next argument of the learned counsel is not in dispute, however, such matter is required to be decided by the Expert Body. Moreover, as regard the parity of pay scale at one stage has already been examined and hence need no further deliberation.

17. As regards the submission with respect to re-designation, the matter is pending with the Pay Commission and hence it is not appropriate for the Court to issue any directions.

18. As regards the last argument of the learned counsel representing the petitioners, it is important to note that the State has not admitted the anomaly or removed the anomaly which would give rise to occasion of the date of implementation.

19. In fact, on careful reading of the judgment passed in *Bihar Secondary Teachers Struggle Committee, Munger(supra)*, it is evident that after relying upon a 7 Judge Bench judgment in *Zabar Singh vs. State of Haryana, 1972 (2) SCC 275*, the Supreme Court laid down the test which has already been noticed.

20. Keeping in view the aforesaid facts and discussions, finding no merit, the writ petitions are dismissed.

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

05th July, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

:YES/NO
:YES/NO

Sr. No.	Case No.	Party Name
1.	Civil Writ Petition No.27104 of 2018	Gurinderpal Singh and others vs. State of Punjab and others
2.	Civil Writ Petition No.27852 of 2018	Jarnail Singh and others vs. State of Punjab and others
3.	Civil Writ Petition No.27638 of 2018	Charanjeet Singh and others vs. State of Punjab and others
4.	Civil Writ Petition No.28632 of 2018	Dilbag Singh and others vs. State of Punjab and others
5.	Civil Writ Petition No.29817 of 2018	Ashok Kumar and others vs. State of Punjab and others

(ANIL KSHETARPAL)
JUDGE