

N THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4454-2017
Date of decision : 02.03.2023

Labh Singh and others..... Petitioners

versus

State of Punjab and others..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Nitesh Singla, Advocate for
Mr. G.S. Samra, Advocate
for the petitioners.

Mr. Rajesh Mehta, Additional A.G., Punjab.

Mr. Neeraj Sharma, Advocate
for respondent No.5.

PANKAJ JAIN, J. (Oral)

Petitioners herein are aggrieved of order dated 11.11.2016 (Annexure P-7), whereby they have been denied revised pay scale of Rs.5000-8100.

2. It is not disputed that the petitioners were promoted as Junior Assistant on 01.01.1996. Punjab Government by way of notification dated 16.01.1998 in exercise of powers conferred by proviso to Article 309 read with clause (3) of Article 187 of the Constitution of India notified Punjab Civil Services (Revised Pay) Rules, 1998 deemed to have come into force w.e.f. 01.01.1996. Revised scales of pay were notified as under:-

Serial No.	Existing Pay scale	Revised Pay scale
1.	2	3
1.	700-1410	2520-4140 (with a minimum start of Rs.2620)
2.	800-1455	2720-4260

3.	830-1500	820-4000
4.	950-1800	3120-6200
5.	950-2130	3120-6200
6.	1020-1800 1020-2130	3330-6200
7.	1200-2130	4040-6200
8.	1365-2410	4000-7220
9.	1410-2480	4550-7220
10.	1500-2700	5000-8100

3. Further vide notification dated 19.05.1998, the aforesaid rules were amended and the revised scale of pay for common categories/posts were specified. The relevant revised pay scale for the purpose of adjudication of the lis in hand reads as under:-

“xx xx xx

2. Ministerial Staff

(i)	Clerk	(i) 950-1800 (with initial start of Rs.1000) (Clerk 20%)	3120-5160 50%	The rate of typewriting allowance to the Typist Clerks in the scale of 3120-5160 deployed on full-time basis shall be Rs.75 p.m. with effect from the 1 st Sept., 1997 and for sanctioning typewriting allowance a certificate to the effect that the concerned Clerks were actually deployed on typing work from the Head of Office will be required every month.
		(ii) 1200-2130 (Senior Clerk) (40%)	4020-6200	
		(iii) 1500-2700 (Junior Asstt.) (40%)	5000-8100	

The designation and the revised equivalent of the unrevised pay scale of officials working as Senior Clerk and Junior Assistant, as on 1st January, 1996, shall be protected as a measure personal to them. For future, the total number of posts of Clerk including Senior Clerk and Junior Assistant in a cadre existing on 1st January, 1996 shall be divided into the posts of Clerk in the Scale of Rs. 3120-5160 and Junior Assistant in the

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scale of Rs. 4400-7000 in the ratio of 50:50. The new posts of Junior Assistant shall be created on the basis of actual requirements.

The posts of Junior Assistant shall be filled up by promotion to the extent of 100% from amongst the Clerks who have an experience of working as such for a minimum period of 5 years in the cadre of the department in which he is working at the time of promotion.”

4. The short issue involved in the present writ petition is:

(i) whether the petitioners who were admittedly working as Junior Assistant on 01.01.1996 will be entitled to revised pay scale of 5000-8100.

5. The said issue came for consideration before this Court in CWP No.22422 of 2010 decided vide order dated 16.05.2012, wherein it was held as under:-

“xx xx xx

The short grievance of the petitioners is that since they were in office on 1.1.96 they were also entitled to have their pay protected. In the written statement it is sought to be argued that pay protection would in fact, be available to those who were placed as such prior to 1.1.96. In my opinion the clear meaning of the rule would not lend itself to this interpretation. Once the petitioners were in office on 1.1.96 they would be entitled to the benefit granted to them by the Government.

It is thus declared that the petitioners would be entitled to the protection of their pay in terms of the stipulation by the Government extracted above.”

6. The issue was taken by the State in Intra Court Appeal, wherein Division Bench in LPA No.1729 of 2012 decided on 05.02.20214, held as under:

We are not inclined to accept that the above said argument which already stood rightly rejected by the learned

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Single Judge. Reading of notification dated 19.5.1988 makes it very clear that the higher pay scales were granted with retrospective effect i.e. from 1.1.1996. It is specifically stated that the Rules notified on the above said date shall be deemed to have come into force on and w.e.f. 1.1.1996. At end of notification dated 19.5.1988, which has been reproduced in earlier part of judgment, it is also stated that pay shall be protected of those officials who were working as Senior Clerks and Junior Assistants as on 1.1.1996. Combined reading of the provisions of the notification dated 19.5.1988 (Annexure P3) makes it very clear that intention of the authorities was to give higher pay scale and protection of pay etc. to those employees who were in service on the cut off date i.e. 1.1.1996 and not only to those who were in service prior thereto.”

7. In view of the fact that the issue already stands concluded in favour of the petitioner, P-7 being in teeth of law laid down by this Court cannot be sustained and is thus ordered to be quashed.

8. Consequently, the present petition is allowed. Petitioners are held entitled for the revised pay scale. Respondents are thus directed to consider the claim of the petitioners as raised in the present writ petition for granting them revised pay scale of Rs.5000-8100 with all consequential benefits within a period of 03 months from the date of receipt of certified copy of this order.

9. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

02.03.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No