

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.31187 of 2018 (O&M)
and other connected cases
Reserved on : 08.05.2023
Date of Order:05.07.2023.
.Petitioners

Baldev Singh and others

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Krishan Singh Dadwal, Advocate, for the petitioners.
Ms. Ishma Randhawa, Addl.A.G., PUnjab.

ANIL KSHETARPAL, J

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

2. In all these writ petitions, the petitioners pray for direction to the respondents to remove the anomaly created in the pay scale of the petitioners which was the result of revision of pay scale. The learned counsels representing the petitioners have filed synopsis in the lead case, namely CWP No.31187 of 2018. It has been stated that the petitioners are working on the different posts such as Supervisor, Machine Operator, Fitter, Junior Technicians/ Earthwork Mistri, Pump Operator, Mixture Operator, Electrician and Mechanics in the Department of Irrigation and Canal Resources. They pray for the parity of pay scales with employees of other category who were drawing the pay scales of Rs.950-1800, whereas the categories of the petitioners were drawing the pay scales of Rs.1000-1800 upto 01.01.1986. After 01.01.1986, the pay scales of the categories of the petitioners were made equal to other categories as all the categories were

given similar pay scale of Rs.5910-20200. In the year 2006, though all the categories were drawing the same pay scales, however, the petitioners were granted higher grade pay of Rs.2400, whereas the employees of other categories were still drawing lesser grade pay of Rs.1900. In the year 2011, the other categories who were drawing lower pay scale were granted pay scale of Rs.10300-34800+3200 Grade Pay, whereas the petitioners were not granted revision of the pay scale in the year 2001 and they were kept in the pay scale of Rs.5910-20200+2400 Grade Pay.

3. The writ petitions are contested by the State of Punjab by filing detailed written statements.

4. It has been pointed out that the pay scales of the petitioners has been fixed as per the report of the 5th Pay Commission keeping in view the all relevant factors including qualifications, nature and scope of duties and responsibilities, etc. They cannot claim scales of pay at par with Junior Engineers. Moreover, the Government of Punjab vide notification dated 24.02.2016 has already constituted 6th Pay Commission which would look into all the cases pertaining to pay scales and anomalies in the pay scales.

5. Heard the learned counsels representing the parties at length and with their able assistance perused the paper books.

6. The learned counsel representing the petitioners while filing the synopsis has contended as under:-

“There is no different in the method of recruitment, eligibility, qualification, duties and responsibilities between the petitioners and other categories i.e. Clerks etc., 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

other categories, however, at the subsequent stage, the petitioners have been put to loss and their pay scale as well as grade pay was not increased. Anomaly has to be removed from the date it has arisen, rather than from any subsequent date prospectively.”

He has also relied upon the following judgments:-

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

7. At this stage, it is appropriate to take note of the fact that in a recent judgment passed by the Supreme Court in the **State of Bihar vs. Bihar Secondary Teachers Struggle Committee, Munger and others (2019) 18 SCC 301** 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.”*

8. By a detailed judgment in **Gurinderpal Singh vs. State of Punjab and others (Civil Writ Petition No.27104 of 2018)** of even date an identical case argued by the same counsels representing the parties, the matter has been decided with the following observations:-

“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 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)**.¹

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.

9. 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 fo 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.

10. 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.”

11 Keeping in view the aforesaid discussion, finding no merit, the writ petitions are dismissed with liberty to the expert bodies to consider the petitioner's claim independently.

12. 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.	CWP No.31187 of 2018	Baldev Singh and others vs. State of Punjab and others
2.	CWP No.27105 of 2018	Janak Raj and others vs. State of Punjab and others
3.	CWP No.27639 of 2018	Sandeep Kumar Garg and others vs State of Punjab and others
4.	CWP-3092 of 2020	Jagraj Singh vs State of Punjab and others

(ANIL KSHETARPAL)
JUDGE