

**In the High Court for the States of Punjab and Haryana
At Chandigarh**

CWP-37209-2019 (O&M)
Date of Decision:-18.07.2023

Paramjit Kumar

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Baldev Sharma, Advocate for the petitioner.

Ms. Ishima Randhawa, Additional Advocate General, Punjab.

GURVINDER SINGH GILL, J.

1. The petitioner assails order dated 3.1.2018 (Annexure P-1/A) passed by respondents vide which order dated 26.5.2016 (Annexure P-3) granting pay scale of Rs. 140-300 to the petitioner has been withdrawn.
2. As per the case of the petitioner, he is a Matriculate and possesses 2 years ITI Diploma. The petitioner had been granted the pay scale of Rs. 140-300 vide order dated 26.5.2016 (Annexure P-3), pursuant to allowing of a writ petition filed by some identically situated persons i.e. CWP No. 10759 of 1990 – Rajinder Pal Gautam and others versus State of Punjab (decided on 30.5.2008). Although, the said decision was challenged in LPA filed by State of Punjab but the same was affirmed in said LPA No. 44 of 2009 (decided on 15.2.2010). Some other identically affected persons had also approached this

Court and filed CWP No. 10073 of 2011 – Darshan Singh and others versus State of Punjab and others which was also allowed.

3. The issue involved in Rajinder Pal Gautam's case (supra) was as to whether skilled and semi-skilled employees could be discriminated in the matter of their pay scales. In the said case, the petitioners therein had been appointed as Pump Operators in the Public Health Department between the years 1967 to 1980 and were Matriculate and also had undergone ITI training during the course of ITI for two years. The contention advanced therein was that as per the Pay Commission's report submitted in 1968, recommendations had been made to link educational qualification with the pay scales. As per the recommendations, the categorization on the basis of qualifications was necessary on account of various types of duties which were required to be performed by various persons including Blacksmiths, Carpenters, Mechanics, Electricians, Fitters, Masons, Machinemen, Plumbers, Turners etc. The contention noticed therein in Para 5 of the judgment is reproduced herein-under :-

“5. The case of the petitioners is that the Pay Commission in its report submitted in 1968 had made recommendations linking the educational qualification to the pay scales. A detailed reference has been made to Chapter-XII of the Pay Commission Report (Annexure P-214). In Item No. 12.33, the reasons for categorisation of post and linking of pay scales to qualifications have been mentioned, namely, that there is a large variety of posts such as those of blacksmiths, Carpenters, Mechanics, Electricians, Fitters Masons, Machinemen, Plumbers, Turners etc. It was considered necessary that various posts are categorized by linking their pay scales to academic and technical qualifications. The thinking of the Pay Commission appears to be that by associating the pay scale to academic and technical qualifications, the multiplicity of pay scale would come to an end.

The pay commission created various categories in para 12.35 and recommendations of pay scale of Rs. 140-300 were made in respect of category (IV) which covered those persons who have qualification of matriculation with two years ITI training certificate. The aforementioned recommendation made by the Pay Commission in 12.35 deserves to be noticed, which reads as under:

"12.35. In consultation with the Heads of Departments as also after studying the existing categories obtaining in the various Departments and the available courses, the Commission proposes the following categorisation :

Scale proposed

<i>Category I:</i>	No academic or technical qualifications but a certain amount of experience, which would enable handling of minor technical Work and assistance to qualified Technicians.	Rs.80-120
<i>Category II:</i>	Middle pass with one year’s trade certificate of the ITI or any other recognized institute	Rs.100-160
<i>Category III:</i>	Middle pass with two year’s certificate Course or Matriculation with one year’s Certificate course in the ITI or any other recognised Institute.	Rs.120-250
<i>Category IV:</i>	Matriculation with two years’ technical Training in the ITI or any other recognized Institute.	Rs.140-300
<i>Category V:</i>	Matriculation with three year’s trade Certificate course, it may include between one or two years of theoretical course followed by apprenticeship training of 2 or 1 year duration so as to make the total number of years spent in training three years.	
<i>Category VI:</i>	Matriculation with Diploma of three years’ duration in the polytechnic or (10% equivalent selection Grade of Rs.450-500, if called for).	Rs.200-450

4. While upon considering the rival contentions, it was held therein as under :-

“14. After hearing the learned counsel for the parties and taking into account the fact that the pay scales have been linked since 1969 with the educational qualification and all other categories like Fitters, Electricians, Carpenters, Masons, Operators, Drivers, Well Borer and Rock Drillers etc. have been granted benefit of higher pay scale of Rs. 140- 300, there is no reason to segregate the category of the petitioners for refusing grant of higher pay scale of

Rs. 140-300. Such a segregation would not stand the test of Article 14 of the Constitution. According to the classical test of classification enunciated by Hon'ble the Supreme Court while interpreting Article 14 of the Constitution two following conditions are required to be fulfilled :

- i) that the classification is founded on intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group; and
- ii) that differentia has a rational relation to the object sought to be achieved by the impugned legislative or executive action.”

5. Consequently, the Pump Operators, who had earlier been kept in the pay scale of Rs. 110-180 were ordered to be granted the pay scale of Rs. 140-300, pursuant to the aforesaid decision by this Court, and also some other orders passed in some other writ petitions. The case of the petitioner was also considered by the respondent for grant of pay scale of Rs. 140-300 and was duly granted the said pay scale vide order dated 26.5.2016 (Annexure P-3) wherein it was specifically observed that the scale is being granted on the basis of educational and technical qualification. The relevant extract of the order read herein-under :-

“In view of the Hon'ble Punjab and Haryana High Court decision dated 01.06.2011 in civil writ petition No. 10073 of 2011, Darshan Singh and others vs. State of Punjab, orders have been issued to implement the decision dated 15.02.2010 in LPA No. 44 of 2009, State of Punjab and others vs. Rajinder Pal Gauttam and others. As per instructions issued by the Superintending Engineer, Department of Water Supply & Sanitation Circle, Ludhiana letter No. A-13542 44 dated 21.07.2011 and Superintending Engineer, Department of Water Supply & Sanitation Circle, Chandigarh letter Endst. No. 13922-23 dated 02.08.11, orders have been issued for grant of scale of 140-300 as junior technicians or corresponding scale to the

petitioners. **This scale is being granted on the certificates of educational and technical qualifications of the petitioners submitted to the office of the undersigned.** In case at the later stage this scale is required to be withdrawn from the employee due to any decision of the Hon'ble Court or any patent mistake or any overpayment is made, then this scale will be withdrawn and recovery will be effected without any legal implication, the employee shall not have any right for legal proceedings against such action. The pay fixation will be done separately. The pay fixation will be on notional basis till 15.02.2010 and financial benefit will be given thereafter in compliance with Hon'ble Punjab and Haryana High Court decision dated 0 1.06.201 11 in civil writ petition No. 10073 of 2011 in civil writ petition No.7102 and Superintending Engineer, Department of Water Supply & Sanitation Circle, Ludhiana letter No. A/2-2446 dated 04.03.2016 Therefore, corresponding scale of 140-300 is granted on his educational/technical qualifications. Sh. Paramjeet Kumar, Meter Reader possessed ITI qualification before joining service in the department.

Sd/- 26/05/16
Executive Engineer
Water Supply & Sanitation Division No. 2.
Sahibzada Ajit Singh Nagar"

6. After passing of the aforesaid order, the petitioner submitted application seeking release of the entire financial benefit flowing from the aforesaid order and was ultimately constrained to file a writ petition in this Court i.e. CWP No. 20062 of 2017. However, during the pendency of the said writ petition, respondent instead of passing any order with regard to release of financial benefits flowing from order dated 26.5.2016 (Annexure P-3), passed impugned order dated 3.1.2018 (Annexure P-1/A) withdrawing order

dated 26.5.2016 (Annexure P-3). Aggrieved by the said order, the petitioner has filed the instant writ petition.

7. The sole contention raised before this Court on behalf of the petitioner is that the pay scales were linked with the educational qualification and that the petitioner being Meter Reader was holding a technical post and as per his educational qualification would fall in 'Category IV' i.e. in the pay scale of Rs. 140-300, being a matriculate and possessing two years training during ITI.
8. The stand of the respondents on the other hand is that the job profile of the petitioner cannot be said to be technical inasmuch as he being a Meter Reader was virtually performing a clerical job only in recording the readings and computing the consumption.
9. The learned State counsel has also referred to letter dated 1.7.2019 sent by the Punjab State Board of Tehnical Education and Industrial Training to the Executive Engineer (respondent No. 5) pursuant to a clarification having been sought by respondent no. 5 from the said Board of Technical Education and Industrial Training. The relevant extract of which reads as under :-

“In reference to the letter received from your office regarding the subject cited above, that your department is himself is Technical Department and all the posts in your department have been sanctioned/filled by your department itself. Therefore, the decision is to be taken by your own departmental level that whether the post of Water Meter Reader is Technical or Non-technical. It is worth mentioned here that by the office board, only exam related work is taken and there is no Water meter trade exists in Office Board.”
10. The learned State counsel has, thus, submitted that it was in light of the fact that the post which the petitioner was holding was non-technical that the

impugned order dated 3.1.2018 (Annexure P-1/A) was passed withdrawing the pay scale of Rs. 140-300 only.

11. This Court has considered rival submissions addressed before this Court.
12. A perusal of judgment dated 30.5.2008 in Rajinder Pal Gautam's case (supra) on the basis of which the order dated 26.5.2016 (Annexure P-3) had been passed shows that this Court in Rajinder Pal Gautam's case has specifically observed that the pay scales of a skilled and semi-skilled employees had been linked with their qualifications since 1969. In a Department like Water Supply and Sanitation Department or Public Works Department, Electricity Department etc., a varied nature of work would be done by employees associated with development works at ground level. Some workers would be looking after electrification of building, some would be looking after water supply, some sewerage and some could be looking after air-conditioning and so on. Each job would be different from other and would require some knowledge and experience in that field, though the level of intelligence required or labour involved may be almost same. At the same time, it goes without saying that some formal training or education in that field would certainly enhance skills of such worker/employee. The employer cannot be expected to have a different pay-scales on the basis of a specialized task conducted by each such employee as the same could lead to having multiple types of pay scales even in a small organization. It was, thus, broadly on the basis of the relevant qualifications which has been held to be the guiding factors for fixation of pay scales.
13. In Rajinder Pal Gautam's case, even Drivers have been granted the benefit of higher pay scale of Rs. 140-300. On the same premises, the petitioner who

had to visit the premises of the consumers and open up the meter boxes and record readings from water meter after ascertaining as to whether the meter is functional or not can safely be said to partly technical. It would not be out of place to mention that before recording reading, the Meter Reader would satisfy himself regarding the meter being intact and in working condition and in case the same is not so he would record a report to this effect. Thus, it cannot be said that the job of a Meter Reader is just a 'clerical' job or a job of an Accountant. As a matter of fact, even when the petitioner had been granted the pay scale of Rs. 140-300 vide order dated 26.5.2016 (Annexure P-3), it is specifically recorded therein that the same is linked on the basis of his educational/technical qualification. The impugned order dated 3.1.2018 (Annexure P-1/A) vide which the order has been withdrawn is absolutely a non-speaking order and no reason has been assigned therein for withdrawing the same.

14. In view of the aforestated position, the impugned order dated 3.1.2018 (Annexure P-1/A) cannot sustain and is hereby set aside. The order dated 26.5.2016 (Annexure P-3) is restored. Respondents are directed to implement the order dated 26.5.2016 (Annexure P-3) in letter and spirit and to release all the dues to the petitioner on the strength of the said order including arrears, if any admissible. Needful be done within a period of 3 months from today.
15. The petition stands accepted accordingly.

18.07.2023

kamal

**(GURVINDER SINGH GILL)
JUDGE**

Whether speaking /reasoned
Whether Reportable

Yes / No
Yes / No