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

**(103) CWP-11308-1998 (O&M)
Date of Decision : September 16, 2024**

Tehal Singh .. Petitioner

Versus

State of Punjab and another .. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jugam Arora, Advocate, for the petitioner.

Mr. Charan Preet Singh, Assistant Advocate General, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present writ petition, the grievance being raised by the petitioner is that the petitioner, who was appointed as Instructor in the Industrial Training Centre, be granted the same salary as being granted to the Instructor in the Industrial Training Institute.

2. Learned counsel for the petitioner submits that as the Instructor in the Industrial Training Centre performed the same duties as being performed by the Instructor in Industrial Training Institute hence, once the nature of the duties is the same, on the basis of principle of equal pay for equal work, the petitioner is also entitled for the grant of salary as being paid to the Instructors in the Industrial Training Institute.



3. Learned counsel for the petitioner places reliance upon the judgment of the Coordinate Bench of this Court in ***CWP No.12803 of 1991 titled as Dharam Pal vs. The Haryana State and others, decided on 18.04.2022*** to contend that similar relief has already been allowed by this Court qua Haryana and places reliance upon paragraph 13 of the said judgment.

4. Upon notice of motion, the respondents have filed the reply wherein, the respondents have stated that in the facts and circumstances of the present case, the equality between the two posts as being claimed by the petitioner is not well founded. The respondents have stated that not only the qualification for appointment to both the posts is different but even the nature of duties being discharged by the employees, is different hence, keeping in view the said fact, the petitioner cannot claim that he is similarly situated as the Instructor in the Industrial Training Institute so as to claim the benefit of same salary.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. Before deciding the controversy, it may be noticed that the grant of benefit of equivalence of a post is within the domain of the executive and not with the Courts. Once, the executive on the basis of various factors, have treated the post of Instructor in the Industrial Training Institute on a different footing as compared to the post of Instructor in the Industrial Training Centres, this Court not being an expert, will refrain from interfering with the said decision of the State unless and until, the parity between the two posts is established beyond doubt. Reliance



can be placed on the judgment of the Hon'ble Supreme Court of India in ***Civil Appeal No.8034 of 2001 titled as Basic Education Board, U.P vs. Upendra Rai and others, decided on 12.02.2008.*** The relevant paragraph of the said judgment is as under:-

“15. Grant of equivalence and /or revocation of equivalence is an administrative decision which is in the sole discretion of the concerned authority, and the Court has nothing to do with such matters. The matter of equivalence is decided by experts appointed by the government, and the Court does not have expertise in such matters. Hence it should exercise judicial restraint and not interfere in it.”

7. Further, the grant of a pay scale to two different posts is also decided by the Pay Commission which consists of expert. Once, after considering all the facts, two different pay scales have been granted to the post of Instructor working in the Industrial Training Institute as well as to the Instructor working in the Industrial Training Centre, this Court will not interfere with the expert opinion merely on the basis of the claim raised by the petitioner.

8. With regard to the claim of the petitioner that the post of Instructors with the Industrial Training Institute and that of Industrial Training Centre is equivalent in all respects hence, the petitioner cannot be treated at a different footing than the Instructor working in Industrial Training Institute for the grant of the pay scale, it may be noticed that the respondents in their reply have given a comparative chart with regard to the minimum qualification required for appointment to the post of Instructor in Industrial Training Institute and for the post of Instructor in the Industrial

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Training Centre. Annexure R-1 attached with the reply clears shows that

the qualification for appointment to both the posts is different. The qualification required for appointment to the post of Instructor in the Industrial Training Institute is at a higher pedestal as compared to the qualification required for appointment as an Instructor in the Industrial Training Centre. Once, the qualifications for both the posts is different and in order to get appointment as Instructor in the Industrial Training Institute, a candidate has to have higher qualification as required for the post of Instructor in the Industrial Training Centre, the said differentiating fact itself is good enough ground to grant a different pay scale to both the posts.

9. It is a settled principle of law settled by the Hon'ble Supreme Court of India in ***Civil Appeal No.8329 of 2011 titled as Union of India vs. Indian Navy Civilian Design Officers Association and another, decided on 22.02.2023*** that where qualification required for appointment to the two posts are different, the equation of the same cannot be claimed in order to claim the same pay scale. The relevant paragraph of the said judgment is as under:-

“ 14. In view of the afore-stated legal position, it clearly emerges that though the doctrine “equal pay for equal work” is not an abstract doctrine and is capable of being enforced in a Court of Law, the equal pay must be for equal work of equal value. The equation of posts and determination of pay scales is the primary function of the Executive and not of the Judiciary. The Courts therefore should 5 (2015) 3 SCC 653 not enter upon the task of job evaluation which is generally left to the expert bodies like the Pay Commissions which undertake rigorous exercise for job evaluation after taking into consideration several factors like the nature of work, the duties,

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accountability and responsibilities attached to the posts, the extent of powers conferred on the persons holding a particular

post, the promotional avenues, the Statutory rules governing the conditions of service, the horizontal and vertical relativities with similar jobs etc. It may be true that the nature of work involved in two posts may sometimes appear to be more or less similar, however, if the classification of posts and determination of pay scale have reasonable nexus with the objective or purpose sought to be achieved, namely, the efficiency in the administration, the Pay Commissions would be justified in recommending and the State would be justified in prescribing different pay scales for the seemingly similar posts. A higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues or frustration due to longer duration of promotional avenues is also an acceptable reason for pay differentiation. It is also a well-accepted position that there could be more than one grade in a particular service. The classification of posts and the determination of pay structure, thus falls within the exclusive domain of the Executive, and the Courts or Tribunals cannot sit in appeal over the wisdom of the Executive in prescribing certain pay structure and grade in a particular service.”

10. With regard to the judgment being cited by the learned counsel for the petitioner in ***Dharam Pal’s case (supra)***, relevant paragraph of which is as under:-

“ 13. Further careful reading of the removal of pay anomaly instructions would reveal that there is no distinction between one set of instructors who belong to Industrial Training Institute (ITI) cadre and the other set who belong to Industrial Training Centre (ITC) to justify the action of the respondents in not granting the benefit of removal of the pay anomaly to the petitioner despite his being as instructor in ITC on parity with the instructions working in ITI.”



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It may be noticed that in the said case, it has been recorded that

there is no differentiating fact between the post of Instructor in the Industrial Training Institute as well as in the Industrial Training Centre. Hence, the said judgment has been passed in the absence of any differentiating fact between the two posts brought to the notice of the Court whereas in the present case, differentiating fact has been brought to the notice of this Court relating to the State of Punjab hence, the judgment in ***Dharam Pal's case (supra)*** cannot be made applicable in the facts and circumstances of the present case.

11. No other argument was raised.

12. Keeping in view the above, no ground is made out for any interference by this Court in the present case.

13. Dismissed.

September 16, 2024

harsha

(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No