



CWP-3339-2019 (O&M)

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

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CWP-3339-2019 (O&M)
Date of Decision :21.11.2024

Kashmiri Lal through LRs**.. Petitioners**

Versus

State of Punjab and another**.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Arvind Galav, Advocate for the petitioners.

Mr. Amarpreet Singh Bains, AAG, Punjab.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, prayer of the petitioner is that he is working on the post of Bill and Cash Messenger in the Department of Punjab State Lotteries and he is entitled for the pay given to the Bill and Cash Messenger working in the Punjab Vidhan Sabha.

Upon notice of motion, the respondents have filed reply wherein, it has been stated that the petitioner is being granted pay scale as notified by the competent authority after recommendation of the Pay Commission and nothing has come on record that post on which the petitioner is working carries the same qualification and nature of duties with respect to Bill and Cash Messenger working in the Punjab Vidhan Sabha and in the absence of any such data provided by the petitioner, the benefit cannot be extended to him.

I have heard learned counsel for the parties and have gone

through the record with their able assistance.



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With regard to the fixation of pay scale of a particular post, the jurisdiction of the Court is very limited. Once, an expert body i.e. Pay Commission considered all the facts keeping in view the nature of duties, the qualification and the job profile, the pay scale is given to a particular post by the Pay Commission, which is accepted by the employer, this Court will not like to interfere until and unless the grant of a particular pay scale to a particular cadre is arbitrary or illegal on the face of it.

Further, as per the settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No.7799-2024, titled as State of Uttar Pradesh and another vs. Virendra Bahadur Katheria and others, decided on 15.07.2024** , pay parity cannot be claimed as indefeasible enforceable right except where the competent authority has taken a decision to equate two posts. In the absence of any equation, even if, the two posts carries same nomenclature, the benefit of pay parity cannot be claimed. Relevant paragraph of the said judgment is as under:-

“53. It needs no emphasis that prescription of pay scale for a post entails Policy decision based upon the recommendations of an expert body like Pay Commission. All that the State is obligated to ensure is that the pay structure of a promotional or higher post is not lower than the feeder cadre. Similarly, pay parity cannot be claimed as an indefeasible enforceable right save and except where the Competent Authority has taken a conscious decision to equate two posts notwithstanding their different nomenclature or distinct qualifications. Incidental grant of same pay scale to two or more posts, without any express equation amongst such posts, cannot be termed as an anomaly in a pay scale of a nature which can be said to have infringed the right to equality under Article 16 of our Constitution.”

In the present case, the parity is only being claimed on the basis of the nomenclature of the two posts, one on which the petitioner is working and another one which is available with the Punjab Vidhan Sabha and in the



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Nothing has come on record that post on which the petitioner is working was ever equated with the post in the Punjab Vidhan Sabha or with Finance Department. In the absence of any equation done by a competent authority, the claim of the petitioner that he is entitled for the same pay scale as being given to the Bill and Cash Messenger working in the Punjab Vidhan Sabha or with Finance Department is not made out.

Further, as per the settled principle of law, the prescription of a particular pay scale to a particular post should be left to the expert. i.e the Pay Commission. Once, the Pay Commission has not granted the pay parity to the Bill and Cash Messenger working in different department of the State of Punjab, this Court will not like to interference so as to grant the said benefit only on the asking of the petitioner.

Not only this, the petitioner is claiming parity qua the 5th Pay Commission whereas, even in the 6th Pay Commission, the same posts carries the different pay scale. Once, in the subsequent Pay Commission report, different pay scale has been given to the posts in question, this Court will not like to interference in the same in any manner.

Keeping in view the facts and circumstance recorded hereinbefore, no ground for interference by this Court is made out and the writ petition is accordingly dismissed.

Civil miscellaneous application pending, if any, is also disposed of.

November 21, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No