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

**CWP-4363-2021
Date of Decision: 17.12.2024**

Amarjeet Singh Talwar and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Sandeep Panwar, Advocate,
for the petitioners.

Mr. Gaurav Jindal, Addl. AG, Haryana.

Mr. Deepak Balyan, Advocate,
for respondent No.3.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 06.01.2021 (Annexure P-24) passed by respondent No.3 vide which the claim of the petitioners for grant of pay scale of Rs.13500-17250/- corresponding pay-scale of Rs.4100-5300/- was rejected with a further prayer in the nature of *mandamus* directing the respondents to grant pay-scale of Rs.13,500-17,250/- w.e.f. 01.01.1996 corresponding pay-scale of Rs.4100-5300/- as per the Haryana Civil Services (Revised Pay) Rules, 1998 (Annexure P-7) and the law settled by this Court and Hon'ble Apex Court in case of similarly situated employees (Annexures P-14 to P-20) and also to direct the respondents to refix/revise

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the pay and pension of the petitioners as per above mentioned pay scale of Rs.13500-17250/- and grant the arrears of revised pay and pension and all other consequential benefits to the petitioners in view of re-fixation of their pay-scale in the aforesaid scale w.e.f. 01.01.1996 along with interest.

2. Learned counsel for the petitioners while giving brief facts of the case submitted that all the petitioners were working as Assistant Engineer (A.E.) in respondent No.3-Board. Thereafter, the petitioners have now been retired on different dates vide Annexure P-1. Petitioners No.1, 2 & 3 retired on 31.12.2008, 31.12.2006 and 31.01.2007, respectively. He further submitted that all the three petitioners were granted benefit of selection grade of Rs.4100-5300/- on completion of 12 years of their regular satisfactory service vide Annexures P-4 to P-6, respectively. Thereafter, with revision of pay-scale, the corresponding pay-scale of Rs.4100-5300/- was to get Rs.13,500-17,250/- which is to be given on the basis of the Pay Commission Report w.e.f. 01.01.1996 but the petitioners have been denied the aforesaid benefit and rather they have been placed in the fitment of the pay-scale of Rs.8000-13500/- without any justification. He also submitted that some of the other similarly situated employees had filed separate writ petitions before this Court and it was held that there was no justification for denying the equivalence of pay-scale of Rs.13,500-17,250/- once the petitioners have been granted the pay-scale of Rs.4100-5300/- and the matter has already attained finality as LPAs were preferred against the aforesaid judgments before the Division Benches of this Court which were dismissed vide Annexures P-14 to P-16 and even the SLPs against the aforesaid LPAs were also dismissed.



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3. Learned counsel for the petitioners further submitted that the reason as to why the petitioners were not granted the fitment pay-scale of Rs.13,500-17,250/- was that as per the respondents, the petitioners were promotees and they were not falling in the category of 20% of the total cadre strength. He also submitted that as per the Instructions issued by the Government, the aforesaid grant of pay-scale of Rs.4100-5300/- was to be given only to the 20% of the total cadre strength of the Assistant Engineers and submitted that so far as all the three petitioners are concerned, they were admittedly granted the aforesaid pay-scale of Rs.4100-5300/- because they fell in the category of 20% of the total cadre post and there was no dispute with regard to the same. However, when at the time of grant of revised pay-scale to the category of Rs.13,500-17,250/-, the respondents for no reason have not granted the aforesaid pay-scale but have granted the pay-scale of Rs.8000-13,500/- for which there is no justification in this regard. He further submitted that in the impugned order, a ground has been taken by the respondent-Board that since the petitioners were not the petitioners in the aforesaid writ petitions and therefore, such benefit cannot be granted to non-petitioners. He has referred to a judgment passed by this Court in “Satbir Singh Vs. State of Haryana” 2002(2) SCT 354, to contend that once the benefit is granted to similarly situated employees, then it is not necessary for all the similarly situated persons to approach the Court and file writ petition and it is the responsibility of the State to rationalize the benefit to all the co-employees and co-employees cannot be forced to come to the Court only because they were non-petitioners once a proposition of law is settled by this Court and the benefit has been granted to the similarly situated persons.

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4. Learned counsel for the petitioners has also referred to the Instructions dated 27.08.2019 issued by the Finance Department, State of Haryana vide Annexure R-5 and submitted that the Finance Department has sought information from the respondent-Board with regard to the non-petitioners, but still the benefit has not been granted.

5. Learned counsel for the petitioners has supplied the Instructions dated 28.04.2022 to the Court, which are taken on record as Mark 'X'. While referring to the aforesaid Instructions, he submitted that the aforesaid aspect of grant of equivalence of pay-scale of Rs.13,500-17,250/- has been rationalized by the respondent-Board itself. He further submitted that in view of the aforesaid position and even the Instructions issued by the respondents, the petitioners are entitled for grant of the equivalence of pay-scale.

6. On the other hand, Mr. Deepak Balyan, learned counsel for respondent No.3-Board submitted that the petitioners have filed the present petition with a delay of about 12 years and therefore, the same is liable to be dismissed. He also submitted that the only reason as to why the petitioners have not been granted the benefit of pay-scale of Rs.13,500-17,250/- was that the petitioners were not the petitioners in the aforesaid writ petition which were filed by their co-employees.

7. I have heard the learned counsels for the parties.

8. It is not in dispute that the petitioners were granted the benefit of pay-scale of Rs.4100-5300/- vide Annexure P-4 to P-6 respectively and therefore, admittedly they fell in the category of 20% of the cadre strength by which the aforesaid benefit of pay-scale of Rs.4100-5300/- was granted



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to them. However, when there was a revision of pay-scale by virtue of the Pay Commission Report, then the aforesaid pay-scale was to be revised to Rs.13,500-17,250/- and since the same was not revised by the respondent-Board, some of the similarly situated employees had filed separate writ petitions before this Court which were allowed and it was held therein that the respondents cannot deny the benefit of pay-scale to the petitioners and granted them the benefit of pay-scale of Rs.4100-5300/-. The aforesaid judgments were assailed in the LPAs and the LPAs were also dismissed vide Annexures P-14 to P-16, respectively. As per the learned counsel for the petitioners, even the SLP against the aforesaid LPA were also dismissed. Today, it has been brought to the notice of this Court that even the respondents have rationalized the aforesaid grant of benefit of the pay-scale of Rs.13,500-17,250/- to all those who were even non-petitioners.

9. So far as the argument raised by the learned counsel for respondent No.3 pertaining to delay aspect is concerned, this Court is of the considered view that the delay itself cannot be fatal to the case of the petitioners because it is a case where the petitioners who are the employees are seeking their Right to Pay and thereafter, re-fixation of their pensionary benefits which is a Right to Pension. It is not only Statutory Right but also Constitutional Right under Article 300-A of the Constitution of India. It was rather a duty of the respondents to have granted the rightful benefit which accrued to the petitioners and it cannot be said that because of delay, the petitioners cannot be granted the benefit of the aforesaid pay-scale because the cause of action is *de die in diem* which is a continuous cause of action.

10. In view of the aforesaid circumstances, this Court is of the

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considered view that the case of the petitioners is squarely covered by the judgments of Division Benches of this Court vide Annexures P-14 to P-16 and also covered by the aforesaid Instructions vide Annexure R-5 and the Instructions which have been supplied to this Court today itself vide Mark 'X'. Consequently, the present petition is allowed. The respondents are directed to grant the aforesaid benefit of pay-scale of Rs.13,500-17,250/- to all the three petitioners with effect from the date when the other similarly situated employees have been granted the aforesaid pay-scale and calculate the arrears and thereafter to grant the same to the petitioners along with interest @ 6% per annum (simple). The retiral/pensionary benefits of the petitioners shall be refixed accordingly and the arrears of the same shall also be disbursed to the petitioners along with interest @ 6% per annum (simple). The entire exercise shall be completed within a period of four months from today. However, there shall be no order as to costs.

17.12.2024*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |