



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-9812-1994 (O&M)

Reserved on : 16.07.2024
Pronounced on : 24.07.2024

Satish KumarPetitioner

Versus

Punjab State Electricity Board (Now PSPCL)Respondent

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Rahul Sharma, Advocate
for the petitioner.

Mr. Karmanbir Singh Kharbanda, Advocate
for the respondents.

NAMIT KUMAR J.

1. The petitioner has approached this Court through the instant writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus, directing the respondent-Board to fix the pay of the petitioner on equal terms as his junior, who is working in the same cadre, is getting and after fixation of pay grant interest @ 18% per annum on the arrears of pay.

2. The brief facts of the case, as have been pleaded in the petition, are that the petitioner was appointed as Oil Cleaner in the erstwhile Punjab State Electricity Board (now Punjab State Power Corporation Limited) on 25.05.1975 in the pay scale of Rs.90-140 and was further promoted as Sub Station Attendant on 07.11.1979 in his own pay scale and thereafter, he was given regular promotion on 02.05.1980. It is the case of the petitioners that from time to time the pay scales of Sub Station Attendant were revised and the said post

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carries the pay scale of Rs.1640/- from 05/1989. The petitioner moved representation that though he is working as Sub Station Attendant but after the revision of pay scale his pay has not been fixed in accordance with existing scale of which the post of Sub Station Attendant carries and ultimately on 02.05.1991, the basic pay of the petitioner was fixed as Rs.1500/- whereas it should have been fixed at par with his juniors i.e. Rs.1640/-. It has further been pleaded that various persons such as Sh. Surjit Singh s/o Karam Singh, working as S.C.O. at 132 K.V. Grid Sub Station, Maur under the Executive Engineer (P&S), Batala, who joined the respondent-Board on 01.10.1977 and is junior to the petitioner, is getting more pay than the petitioner. In June 1989, basic salary of Sh. Surjit Singh was fixed at Rs.1640/-. It has further been pleaded that Surjit Singh joined the respondent-Board as Electrician on 01.10.1977 i.e. more than 02 years after the joining of the petitioner and he was appointed as Sub Station Attendant on 23.06.1980, whereas the petitioner was promoted as Sub Station Attendant on 07.11.1979. On 26.06.1992, Surjit Singh was promoted as S.S.O. and presently he is working as such. The petitioner made various representations to the respondent-Board, however, his pay has not been fixed at par with Sh. Surjit Singh.

3. Written statement on behalf of the respondent-Board has been filed wherein it has been clarified that the petitioner was appointed as officiating Oil Cleaner on 25.05.1975 in the pay scale of Rs.90-140 instead of Rs.110-250. He was promoted as Sub Station Attendant in his own pay scale of Rs.90-140 on 07.11.1979 and was granted regular pay scale of Rs.410-450 on 02.05.1980. It has been denied that



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the petitioner was promoted as S.S.A. on 01.04.1979. It has further been averred that the Board revised the pay scale of S.S.A. w.e.f. 01.01.1986 in the pay scale of Rs.1200-2200 vide order dated 03.05.1991 and the pay of the petitioner was fixed at Rs.1200/- per month w.e.f. 01.01.1986 and on 22.08.1991, he was granted the second time bound promotional scale after 16 years of service which is Rs.1500/- from induction post of Oil Cleaner. With regard to Surjit Singh, it has been averred that he was directly joined as Sub Station Attendant on 24.06.1980 and was granted first time bound promotional scale of Rs.1640-2925 after 09 years of service as Sub Station Attendant and his pay was fixed as Rs.1640/- per month w.e.f. 24.06.1989. On the basis of his seniority, he was further promoted to the post of S.S.O. on 26.06.1992 and whereas, the petitioner joined the Board as Oil Cleaner on 12.05.1975 in the pay scale of Rs.90-140. The comparative service particulars of the petitioner and Sujit Singh have been reproduced in the written statement which is as under :-

Sr. No.	Particulars	Petitioner	Sh. Surjit Singh
(i)	Date of joining the first entry into the service book.	12.05.1975 FN as Oil Cleaner	23.06.1980 as SSA
(ii)	Promotion Date	07.11.1979 from O.C. to SSA	26.06.1992 from SSA to SSO
(iii)	PSEB allowed Ist time bound promotional scale after 9 years of service.	Not given as petitioner was promoted before 9 years.	First time bound promotion scale from induction post of SSA was allowed in Pay Scale of Rs.1640-2925 w.e.f. 24.06.1989.
(iv)	Second time bound promotional scale after 16 years of service	Second time bound promotion scale after 16 years of service from the induction post i.e. Oil Cleaner in the Scale of Rs.1500-1640 and Pay fixed	



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		at Rs.1500 w.e.f. 22.08.1991	
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It has further been averred in the written statement that service particulars of both the employees are different as such their pay cannot be compared. It has further been stated that the petitioner is not entitled to 09 years first time bound promotional scale as he was given first promotion on 07.11.1979 i.e. before 01.01.1986. However, he was given second time bound promotional scale after 16 years of service from the induction post of Oil Cleaner and whereas Surjit Singh was directly appointed as Sub Station Attendant on 24.06.1980 and got his first time bound promotional scale of Rs.1640-2925 after 09 years of service.

4. Learned counsel for the petitioner submits that the petitioner has been discriminated as person junior to him, who was directly recruited as Sub Station Attendant, has been granted the pay scale of Rs.1640-2925/- on completion of 09 years service and whereas the said pay scale has not been granted to the petitioner.

5. Per contra, learned counsel for the respondent submits that the petitioner was initially appointed as Oil Cleaner and he was further promoted to the post of Sub Station Attendant on 07.11.1979, within 09 years of his service, therefore, he is not entitled for the grant of pay scale of Rs.1640-2925/- on completion of 09 years service and further, the petitioner has already been granted the next higher scale on completion of 16 years of service as per policy of the Board as is clear from the chart reproduced in the written statement.

6. I have heard learned counsel for the parties and perused the record with their able assistance.



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7. The similar issue has already been considered by this Court in ***CWP No.17323-1999 titled as Sukhminder Singh and others Vs. Punjab State Electricity Board decided on 17.07.2024***, wherein it has been observed as under :-

“7. Admittedly, the petitioners were initially joined the service of the Board as Oiler & Cleaners on various dates between 03.07.1973 to 15.11.1975 and were further promoted as Sub Station Attendants on various dates between 04.07.1978 to 01.12.1984. The petitioners are claiming pay scale of Rs.1640-2925/- on completion of 09 years service in terms of Finance Circular No.17/1990 dated 23.04.1990 which reads as under :-

“xx xx xx xx xx

The Punjab State Elec. Board have been seized of the problems of stagnation prevailing amongst the various cadres of regular employees and its consequent effect on their efficiency. It is felt that an employee should, under ideal service conditions get normally two promotions from his initial recruitment level during his service. However, this is not always possible owing to non-availability of promotional posts. The aspiration of the employees can, however, be met to a great extent by allowing time bound higher scales to the employees at two stages in their service Career. The Punjab State Elec. Board has after the completion of 9/16 years of regular service in the PSEB, provided the maximum benefit on being placed in the time bound promotional scale does not exceed (including promotional increments) to the subordinate employee having max. scale five increments/upto Rs.3500/- except the categories where the benefits of time bound placement to higher benefit so exceeds five increments, the time bound promotional scale will be so devised that the minimum benefit on being placed in the time bound promotional scale is five increments including promotional increment(s). It is clarified that in devising the scale, the case of a direct recruit will be taken, who presumably enters service on minimum of the scale of 1-1-1986. A promotee will be fixed at the minimum of his

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promotional devised time bound scale and in case he has already crossed the minimum of time bound promotional scale or devised higher time bound scale, as the case may be, his pay will be fixed as if he has been promoted in the ordinary course i.e. by allowing promotional increment(s). Likewise a direct recruit on completion of nine years regular service will draw minimum of the promotional time bound devised scale irrespective of difference of more than five increments between the pay drawn by him on completion of 9 years service and having already crossed the minimum of this promotional devised time bound scale or promotional time bound scale, as the case may be, his pay will be fixed as if he has been promoted in the ordinary course i.e. by allowing promotional increment(s).

The scheme to allow Time Bound benefit of promotional scale will take effect from 1-1-1986. However, the payment of arrears would be spread over to two years i.e. arrears from 1-1-86 to 28.2.89 and 1989-90 would be paid in 1990-91 and 1991-92 respectively.

Features of the schemes :

1. The benefit of first time bound placement into promotional/devised promotional scale as determined and notified on the basis of principle enunciated above, would become available to an employee on completion of 9(nine) years of regular service on a post and the second time bound promotional/devised promotional scale would become available after completion of 16 (sixteen) years of service. If an employee gets normal promotion to the next higher post before completion of 9 years service from the date of direct recruitment then he will not be given first time bound promotional/devised promotional scale. He will be eligible to get second time bound promotional/devised promotional scale after the completion of 16 years of service counted from the date of direct recruitment provided he does not earn second normal promotion before the completion of the abovesaid 16 years of service. Further, an employee placed into the first promotional/devised promotional scale on account of his length of



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service will not be placed into the second promotional/devised promotional scale before completion of atleast three years from the date of his placement into the first promotional/devised promotional scale.

For example an employee who has completed 17 years of service in an induction post and was not promoted upto 1-1-1886, will be allowed 1st time bound promotional/ devised promotional scale on 1-1-1986 and the 2nd time bound promotional devised promotional scale will be admissible on 1-1-1989 i.e. after completion of three years service in the first time bound promotional/devised promotional scale.

2. For granting the time bound promotional/devised promotional scale to each employee in any Cadre, the prescribed period will be counted from the date of commencement of service on the lowest post on which regular appointment has been made through direct recruitment in the concerned cadre.

3 to 7 xx xx xx xx

8. No anomaly of pay would be claimed by any senior employee viz-a-viz another employee merely on the strength of latter getting his placement into the time bound promotion/devised promotional scale.”

8. The abovesaid policy has further been amended vide Finance Circular No.21/1994 dated 01.06.1994. The relevant extract from which is as under :-

“PUNJAB STATE ELECTRICITY BOARD
OFFICE OF THE SECRETARY
(FINANCE SECTION)

Finance Circular No.21/1994

xx xx xx xx xx

Memo No.116493/117293/FP-1/Vol-II
Dated 1.6.1994

Sub : Removal of anomaly by stepping up the pay of a senior employee drawing pay less than a junior employee with his junior.



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4(a) *Anomaly of a senior employee directly recruited will be removed only with the directly recruited junior employee and not with the promotee employee on the same post/cadre/scale.*

9. Since the petitioners were promoted from the post of Oiler & Cleaners to the post of Sub Station Attendants within 09 years, therefore, they have rightly been granted the next higher pay scale on completion of 16 years of service, considering their initial entry into the service and they cannot claim parity with the direct recruits, who have been appointed as Sub Station Attendants, in view of the provisions of para 8 of the abovesaid policy which provides that no anomaly of pay would be claimed by any senior employee viz-a-viz another employee merely on strength of latter getting his placement into the time bound promotional/devised promotional scale.

10. The Hon'ble Supreme Court in **State of Andhra Pradesh and another Vs. G. Sreenivasa Rao and others : 1989 (2) SCC 290**, while considering the scope of the doctrine of "equal pay for equal work", has held that the said doctrine cannot be put in a strait-jacket and cannot be read in Article 14 and reasonable classification, based on intelligible criteria having nexus with the object sought to be achieved, is permissible. The relevant extract from the said judgment is as under :-

"1. The question for decision in these appeals is whether payment of less salary to a senior than his junior in the same cadre having the same pay scale is violative of the Principle of "equal pay for equal work" enshrined in Article 39(d) read with Articles 14 and 16 of Constitution of India.

xx xx xx xx xx

14. We do not agree with the High Court/Tribunal. Doctrine of "equal pay for equal work" cannot be put in a straight- jacket. Although the doctrine finds its place in the Directive Principles but this Court, in various judgments, has authoritatively pronounced that fight to "equal pay for equal work" is an accompaniment of equality clause enshrined in Articles 14 and 16 of the Constitution of India. Nevertheless the abstract doctrine of "equal pay for



equal work” cannot be read in Article 14. Reasonable classification, based on intelligible criteria having nexus with the object sought to be achieved, is permissible.

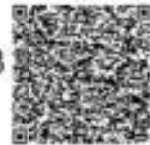
15. "Equal pay for equal work" does not mean that all the members of a cadre must receive the same pay-packet irrespective of their seniority, source of recruitment, educational qualifications and various other incidents of service. When a single running pay-scale is provided in a cadre the constitutional mandate of equal pay for equal work is satisfied. Ordinarily grant of higher pay to a junior would ex-facie be arbitrary but if there are justifiable grounds in doing so the seniors cannot invoke the equality doctrine. To illustrate, when Pay fixation is done under valid statutory rules/executive instructions, when persons recruited from different sources are given pay protection, when promotee from lower cadre or a transferee from another cadre is given pay protection, when a senior is stopped at Efficiency Bar, when advance increments are given for experience/passing a test/acquiring higher qualifications or as incentive for efficiency; are some of the eventualities when a junior may be drawing higher pay than his seniors without violating the mandate of equal pay for equal work. The differentia on these grounds would be based on intelligible criteria which has rational nexus with the object sought to be achieved. We do not therefore find any good ground to sustain the judgments of the High Court/Tribunal.

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*The abovesaid judgment has been followed by a Division Bench of this Court in **D.K. Monga Vs. State of Punjab and another : 2013 (1) RSJ 16** and it has been held as under :-*

“xx xx xx xx xx

16. The doctrine of "equal pay for equal work", as enshrined in Article 39 of the Constitution of India, is not a doctrine of exactitude that a junior and senior have to have exactly drawn equal salary up to rupee and paise. Such doctrine contemplates that all things being equal, the pay should be equal in



respect of such similar employees. The doctrine of 'equality' enshrined in Article 14 read with Article 39 is that the members of the Service discharging similar functions shall not be discriminated in the matter of pay-scale. All the Members of the cadre of Punjab Superior Judicial Service are placed in the same pay scale, but if some of the Members have earned extra increments, as in the present case on account of their experience at the Bar, that will not be an act of discrimination or arbitrariness. The pay scale remains the same, but it is the fixation of pay, which is different in case of Members of the Service fixed in the same pay scale. The fixation of individual's salary cannot be made basis to claim stepping up of pay, as pay fixation is dependent upon numerous factors such as higher qualification, number of years put in the feeder cadre and grant of additional increment or on account of any other reason etc.

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25. *In Veera Raghavan's case (supra), it was held by the Supreme Court to the following effect:-*

*"3. The position in law has been clearly laid down by this Court in **State of A.P. v. G. Sreenivasa Rao (1989) 2 SCC 290**. In para 15, this Court has observed that equal pay for equal work does not mean that all the members of a cadre must receive the same pay packet irrespective of their seniority, source of recruitment, educational qualifications and various other incidents of service. When a single running pay scale is provided in a cadre, the constitutional mandate of equal pay for equal work is satisfied. Ordinarily, grant of higher pay to a junior would ex facie be arbitrary; but if there are justifiable grounds in doing so, the seniors cannot invoke the equality doctrine. In the present case, the higher pay drawn by the juniors of the respondent is on account of their longer actual length of service in the cadre of District Munsifs. There is, therefore, good reason for their drawing more pay than the respondent."*



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11. The judgment cited by learned senior counsel for the petitioners in **Rajesh Kumar’s case (supra)** is not applicable to the facts of the present case as in the said case the dispute was with regard to the pay scale granted to the Laboratory Technicians (Malaria) appointed by way of promotion and direct recruitment. The Court held that the qualification meant for direct recruited Laboratory Technicians (Malaria) was much higher than the promotee Technicians and therefore, the direct recruited Technicians cannot be denied the pay scale granted to the promotee Technicians and one of the plea raised in the said case was that the pay scale of higher post cannot be less than the scale of feeder post.

12. In view of the above, the present writ petition, being devoid of merit, is hereby dismissed.”

8. In view of the above, the present writ petition, being devoid of merit, is hereby dismissed.

9. Pending application, if any, shall stands disposed of accordingly.

24.07.2024
kothiyal

(NAMIT KUMAR)
JUDGE

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