

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.201

Date of Decision: 16.02.2024

1)

CWP-6452-1993

2024:PHHC:024938

Ram Phal Singh and others

Versus

.... Petitioners

State of Haryana and another

... Respondents

2)

CWP-19113-1997

2024:PHHC:024939

Rajbir Singh Kuhar and others

Versus

.... Petitioners

State of Haryana and others

... Respondents

3)

CWP-12777-2005

2024:PHHC:024941

Jaimal Singh and others

Versus

.... Petitioners

State of Haryana and others

... Respondents

4)

CWP-15452-1999

2024:PHHC:024944

Pritam Singh and others

Versus

.... Petitioners

State of Haryana and another

... Respondents

5)

CWP-11939-2019

2024:PHHC:024945

Baljeet Singh

Versus

.... Petitioner

State of Haryana and others

... Respondents

6)	<u>CWP-10082-2019</u>	2024:PHHC:024947
Subhash Chander and others	Versus	 Petitioners
State of Haryana and others		... Respondents
7)	<u>CWP-2485-2020</u>	2024:PHHC:024952
Anil Kumar and others	Versus	 Petitioners
State of Haryana and another		... Respondents
8)	<u>CWP-26666-2016</u>	2024:PHHC:024954
Gurmeet Singh and others	Versus	 Petitioners
State of Haryana and others		... Respondents
9)	<u>CWP-13067-2020</u>	2024:PHHC:024957
Ram Niwas	Versus	 Petitioner
State of Haryana and another		... Respondents
10)	<u>CWP-27470-2016</u>	2024:PHHC:024964
Kiran Saini	Versus	 Petitioner
State of Haryana and others		... Respondents
11)	<u>CWP-23143-2022</u>	2024:PHHC:024959
Satpal Singh	Versus	 Petitioner
State of Haryana and another		... Respondents

12)

CWP-13475-2022

2024:PHHC:025002

Ashwani Sehgal

Versus

.... Petitioner

State of Haryana and others

... Respondents

13)

CWP-13815-2022

2024:PHHC:025004

Meghraj and others

Versus

.... Petitioners

State of Haryana and others

... Respondents

14)

CWP-15966-2023

2024:PHHC:025007

Prem Kumar Bajaj

Versus

.... Petitioner

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. D.S.Patwalia, Senior Advocate with
Mr. A.S.Chadha, Advocate for the petitioners in
CWP No.6452 of 1993, CWP No.12777 of 2005,
CWP No.19113 of 1997 and CWP No.26666 of 2016.

Mr. Saurabh Dalal, Advocate
for petitioners no.73, 76, 78 and 111 in CWP No.19113 of 1997.

Mr. S.K.Sharma, Advocate and
Mr. Rajat Sharma, Advocate
for the petitioners in CWP No.15452 of 1999.

Mr. Gurmeet Singh Saini, Advocate
for the petitioner in CWP No.11939 of 2019.

Mr. Ashok Kaushik, Advocate
for the petitioners in CWP No.10082 of 2019,
CWP No.2485 of 2020 and CWP No.23143 of 2022.

Mr. M.M.Pandey, Advocate and
Mr. Umesh Pandey, Advocate
for the petitioner in CWP No.13067 of 2020.

Mr. Ajay Aggarwal, Advocate
for the petitioner in CWP no.27470 of 2016.

Mr. Ravinder Malik (Ravi), Advocate
for the petitioners in CWP Nos.13475 and 13815 of 2022.

Mr. Rakesh Sobti, Advocate
for the petitioner in CWP No.15966 of 2023.

Mr. Bhim Kumar Bhagri, Advocate
for the petitioners in CWP No.12777 of 2005.

Mr. Ravi Dutt Sharma, Addl. A.G.Haryana.

TRIBHUVAN DAHIYA, J. (ORAL)

All the aforementioned petitions are based on similar facts and raise identical issue, as has been raised in CWP No.6452 of 1993, therefore, the same are being decided along with it.

2. The writ petition bearing CWP No.6452 of 1993 has been filed, *inter alia*, seeking a writ of *mandamus* directing the respondents to grant pay scale of ₹2000-3500 to the petitioners, as has been granted to similarly situated employees, i.e., Lecturers (School Cadre) working in the Education Department, along with arrears.

3. The petition has been filed with the averments that the petitioners are working as General Foundation Course Instructors (hereinafter referred to as 'GFC Instructors') in different Government Vocational Education Institutes (hereinafter referred to as 'VEIs') in the State of Haryana. All of them joined service between 25.07.1983 to 04.04.1992, and possess qualifications of M.A. in Sociology/Economics; some of them possess M.Phil and B.Ed. also. They have been teaching different subjects to eleventh and twelfth standard students of VEIs which

were established under Vocational Education Scheme (hereinafter referred to as 'the Scheme') in the respondent-Department. Twelfth standard examination under 10+2 pattern of education in the Scheme, conducted by the State Council for Vocational Education, has been recognised by the Maharshi Dayanand University, Rohtak, as equivalent to any other twelfth standard examination for admission to B.A./B.Com. degree courses with effect from the session 1987-88, as per letter dated 31.07.1987, Annexure P-2. It has further been averred that job requirement of the petitioners is similar to that of Lecturers (School Cadre) working in Senior Secondary Schools in the Education Department. It is because the syllabus being taught by the petitioners in the VEIs and the Lecturers (School Cadre) is approved by the National Council of Educational Research and Training (NCERT), New Delhi. Although the petitioners have been performing duties similar to those of school cadre Lecturers, they are being discriminated against in the matter of pay scales. Their salary is in the pay scale of ₹1400-2600, whereas Lecturers have been given higher pay scales of ₹2000-3500. It is also averred that even Masters/JBT teachers in the Education Department are getting pay scale of ₹1400-2600, though they are required to teach classes up to Matric/Primary standard and possess qualification of B.A./B.Sc. with B.Ed. Therefore, the petitioners are entitled to higher pay scale being given to the School cadre Lecturers; the disparity in the scales is arbitrary and needs to be removed.

4. Subsequent facts were also brought on record during pendency of the petition. Reliance has been placed upon instructions issued vide memo dated 24.10.2007, Annexure A-1, whereby the government agreed to change nomenclature of Vocational/G.F.C. Instructors as Vocational/G.F.C.

Lecturers in their own pay scale, on the condition that the officials will not

demand the higher pay scale. Reference has also been made to another memo, dated 06.07.2009, Annexure A-2, whereby the Department framed tentative joint seniority list of G.F.C. Instructors/petitioners, English/Hindi Language Teachers, and employees of other trades, such as, Sales Assistant, etc.

5. The respondents have contested the claim of parity in scales for the petitioners on the ground that after closure of the Scheme the government, vide notification dated 11.06.2008, decided to transfer sixty-eight VEIs to different government departments. Accordingly, some of the staff members of VEIs were ordered to be adjusted in the Education Department, some in the Technical Education Department and the remaining were to be retained in the respondent-Department itself. And finally, vide office order dated 16.02.2017, modified on 26.10.2017, Annexures R-1 and R-2 respectively, various posts detailed therein along with the incumbents, including the petitioners working in VEIs, were transferred to the respondent-Department, and designation of Vocational/GFC Instructor was changed to Employability Skills Instructor. Therefore, there is no basis for the petitioners to claim parity in pay scales with the employees who were transferred to a different Department, i.e., Lecturers (School Cadre) working in the Education Department. Besides, qualifications for two posts are also different. Group-B Instructors in the respondent-Department are required to have M.A. Sociology/Economics with Hindi up to Matric, whereas Lecturers (School Cadre) are required to have M.A./M.Sc./M.Com. in the relevant subject with fifty per cent marks from a recognised university. Therefore, the two cannot be equated.

6. Mr. D.S.Patwalia, learned senior counsel for the petitioners contends that their case for parity of pay scales with School cadre Lecturers

in the Education Department is squarely covered by judgment dated 23.09.2015, rendered by this Court in CWP No.10269 of 2010, titled *Makhan Singh and others v. State of Haryana and another* (hereinafter referred to as '*Makhan Singh case*'), whereby Language Teachers along with Vocational Education Instructors have been granted pay scales admissible to Lecturers (School Cadre). The judgment has attained finality, and stands implemented by the government granting parity to the petitioners therein with school cadre Lecturers. After termination of the Scheme, the employees/instructors of VEIs were categorised as Vocational Education Instructors, GFC Instructors, Language Teachers in Hindi/English, etc. Accordingly, the petitioners herein are similarly situated as employees/instructors in *Makhan Singh case*, and entitled to the same relief. Besides, the joint seniority list, dated 06.07.2009, circulated by the Department itself establishes that the petitioners/GFC Instructors have been granted equivalence in status to Language Teachers and Vocational Education Instructors. Once the Instructors and Language Teachers have been granted the pay scales of school cadre Lecturers in Education Department, the petitioners are also entitled to the same on parity. Secondly, it has been contended that nomenclature of the petitioners posts was also changed to that of GFC Lecturers, vide letter dated 24.10.2007. Once they have been made Lecturers, it was incumbent upon the respondent-State to grant them the pay scales meant for school cadre Lecturers as well.

7. Mr. Ravi Dutt Sharma, learned Additional Advocate General, on the contrary, submits that *Makhan Singh case* and the directions issued therein have no application to the facts and circumstances of the instant case.

The petitioners/Instructors in that case were employees of the Education Department, and were accordingly granted pay parity with the school cadre

Lecturers working in the same Department. The pay scales admissible to employees/Lecturers in the Education Department has no applicability to the respondent-Department, nor can such scales be granted to the petitioners. They have never been in the Education Department. Their service, as that of other employees/instructors in the respondent-Department, is governed under the Industrial Training Departmental Rules, 2013, and the service rules of Education Department have no application. Therefore, pay scales meant for employees in the respondent Department cannot be determined by equating the two posts, nor can any claim on that basis be raised. Besides, the petitioners, who were appointed in the respondent-Department pursuant to office order dated 16.02.2017/26.10.2017, are governed by the terms and conditions of appointment mentioned therein, which stipulate that all the staff transferred from Vocational Education cadre will continue to remain in separate cadre distinct from cadres of Industrial Training Department even in case of similar subjects/duties; their appointment will be governed by the Haryana Industrial Training and Vocational Education Department (Group 'B') Directorate and Field Offices Service Rules, 1998 (hereinafter referred to as 'Group-B Rules') and the Haryana Industrial Training and Vocational Education Department Field Offices (Group 'C') Service Rules, 1998 (hereinafter referred to as 'Group-C Rules'). Accordingly, the petitioners' claim being in violation of their terms of appointment and the service rules cannot be accepted. He also contends that the judgment in *Makhan Singh* case relies upon a judgment of this Court in *Ram Chander and others v. State of Haryana and another*, 1993(1) RSJ 648 (hereinafter referred to as '*Ram Chander* case'), wherein the issue adjudicated was, 'whether Language Teachers and G.F.C. Instructors working in the Government Vocational Education Institutes are entitled to same pay scale as is

admissible to Lecturers in Secondary Schools in the State of Haryana'. And GFC Instructors (petitioners no. 3 and 4 therein) did not press the petition, which was dismissed *qua* them. Therefore, *Ram Chander* case has decided the issue against the petitioners, who are GFC Instructors, and they cannot draw any benefit from *Makhan Singh* case. He also contends that there is difference in qualification of posts held by the petitioners with that of Lecturers (School Cadre), and on that account also parity in pay scales becomes inadmissible.

8. Arguments advanced by learned counsel for the parties have been considered.

9. The facts on record make it apparent that on closure of the Scheme, some of the employees working in VEIs under the erstwhile respondent-Department were transferred to two other government departments, viz., Education Department, Technical Education Department, and the remaining were retained in the respondent-Department itself. Accordingly, the employees got divided into three different Departments. The petitioners remained in the respondent-Department as per terms stipulated in office orders dated 16.02.2017/26.10.2017. It was a fortuitous circumstance that some of them got transferred/absorbed in the Education Department and others in the respondent Department; originally they all were working in VEIs under the Scheme, possessing similar qualifications, performing similar functions and assigned similar duties. The situation remains unchanged even after their transfer. Therefore, transferring them to different departments on closure/transfer of the Scheme will not entitle the respondents to treat them differently vis-à-vis school cadre Lecturers in the matter of pay scales especially when similar functions are being performed by all of them who have similar qualification, and the ones posted in the

Education Department have been held entitled to pay scales of school cadre Lecturers. On basis of parity, the remaining, like the petitioners, have also to be similarly treated and given the same pay scales. There is no justification with the respondents in not doing so.

10. In *Makhan Singh* case, this Court dealt with the employees working as Vocational Education Instructors, who were later designated as Lecturers, and transferred to the Education Department as a separate cadre with a separate seniority list. Considering this aspect, as also that there was no difference in functions discharged by them as well as educational qualifications for the post of Lecturer in School Education Department, i.e., M.A./M.Sc./M.Com. with at least fifty per cent marks from a recognised university, this Court by relying upon *Ram Chander* case held as under:

On perusal of the aforesaid, I am of the view that the stand of the respondents cannot be sustained in the eyes of law for the simple reason that the petitioners were designated as Lecturers and had similar qualification as the ones possessed by the Lecturers in the School Education Department. The petitioners having been absorbed in the Education Department would be entitled to similar treatment in matters of pay particularly when there is no distinction between the functions being discharged by both the sets of employees. It has been stated that the petitioners are teaching higher classes of 11th and 12th whereas Lecturers in Education Department were teaching classes 9th to 12th.

The functionality aspect, therefore, being similar along with the Educational qualification, there would be no justification with the respondents to deny parity in pay scales

particularly when this aspect has been specifically dealt with by the Hon'ble Supreme Court to negate a similar stand.

The directions given in the judgment have been complied with by the respondents and the petitioners therein have been given the pay scales admissible to school cadre Lecturers.

11. The contention of learned State counsel that *Ram Chander* case has no application to the petitioners' case, is misplaced. Petitioners no.1 and 2 in *Ram Chander* case were working as Language Teachers in different VEIs set up by the respondent-Department, and were being paid salary in the revised scale of ₹1400-2600. They had claimed parity with the Lecturers (School Cadre) working in Senior Secondary Schools, who were being paid salary in the pay scale of ₹2000-3500. This Court held that they were possessing equivalent academic qualifications and performing the same nature of duties and functions, as were being performed by the Lecturers in Senior Secondary Schools in the Education Department. The objection that there could not be parity between pay scales of Language Teachers working in the respondent-Department with that of Lecturers (School Cadre) working in the Education Department, as the two belong to different cadres in different Departments governed by different service Rules, was also rejected. Accordingly, dismissal of the petition *qua* Petitioners no. 3 and 4, who did not press the petition, is inconsequential, and does not in any manner amount to holding that GFC Instructors are not entitled to pay parity with school cadre Lecturers, as *ratio* of the judgment is otherwise. The relevant paragraphs whereof read as under:

12. ...In the present case, however, the respondents have failed to justify the grant of different pay scale to the two sets of employees. It is not shown that either reliability or

responsibility of the Lecturers in the school cadre is higher than that of the Language Teachers in the Vocational Education Department which may have a reasonable nexus with the object of differentiation, not amounting to discrimination. If differentiation had been brought out having regard to the nature and the types of work done by the two sets of employees and differentiation so brought was based on intelligible data, the respondents would perhaps have been justified to treat the two sets of employees differently, in the matter of pay scale. It has already been noticed, that the two sets of employees in this case are teachers and imparting education to the students of classes of 10+2 Education System. The syllabus taught by them is the same. The examining body of the students taught by them is the same. Certificates issued to the students passing 10+2 examination is also the same. In the matter of teaching it cannot be said that the responsibility or the reliability of the Lecturers in the school cadre would be higher than that of the Language Teachers in the Vocational Education Department. The aforesaid decision, therefore, does not in any way help the respondents.

13. to 16. xxxx. xxxxx

17. Having regard to the facts of the present case and the conclusion arrived at above, it is held that doctrine of equal pay for equal work in the case of petitioners Nos. 1 and 2, has not been followed in the matter of pay scale. The writ petition qua petitioners Nos. 1 and 2, therefore, succeeds and they are held entitled to grant of the same pay scale as is admissible to their counterparts i.e. the Lecturers in the school cadre in the

Education Department Haryana, with effect from January 16, 1990, the date when the students of 12th Class studying in various Vocational Education Institutes in Haryana under 10+2 Education System were ordered to be examined by the Haryana School Education Board instead of the Department of Industrial Training and Vocational Education. The respondents are directed to fix the pay of petitioners Nos. 1 and 2 in the pay scale as admissible to the Lecturers in the school cadre in the Education Department, with effect from January 16, 1990. They shall, however, be entitled to draw their salary in the new pay scale so fixed, only from the date of this judgment. It is clarified that they shall not be entitled to any arrears of pay etc. prior to the date of this judgment, as they joined service knowing fully well the conditions of their service and the pay scale carried by the post held by them. No costs.

The intra-court appeal against this judgment filed by the Department was dismissed, as also the Civil Appeal bearing No.2450 of 1995 by the Supreme Court, vide judgment dated 09.05.1997. Therefore, *Ram Chander* case has attained finality, deciding the issue raised in the instant petition.

12. The contentions raised by learned State counsel that the petitioners are not entitled to claim parity in pay scales with school cadre Lecturers as the two are in different departments, governed by separate service rules and have distinct qualifications, are not sustainable. All these objections already stand rejected by this Court in *Ram Chander* case, as discussed hereinabove, whereby pay parity was granted to Language Teachers working in the respondent Department's institutions with that of school cadre Lecturers in Education Department. *Makhan Singh* case

followed the law laid down in *Ram Chander* case in granting pay parity to Language Teachers and Vocational Education Instructors, transferred/absorbed in the Education Department, with school cadre Lecturers in the same Department. Petitioners are no different from Language Teachers and Vocational Education Instructors who have already been equated for grant of pay scales to school cadre Lecturers by this Court. Except the difference in nomenclature of posts, there is no other distinction so far as their qualification and nature of duties are concerned, nor is it the respondents’ case. Consequently, there is no escape from concluding that the petitioners are entitled to pay parity with Lecturers (School Cadre) in the Education Department.

13. Accordingly, all the writ petitions are allowed, the petitioners are held entitled to grant of the same pay scale as is admissible to Lecturers (School Cadre) in the Education Department with effect from 16.01.1990, the date pay parity was granted in *Ram Chander* case. The respondents are directed to fix the petitioners’ pay in the pay scale admissible to school cadre Lecturers from that date and release all consequential benefits to them with interest at the rate of six per cent per annum from the due date till actual payment, within eight weeks of receiving a certified copy of this judgment. However, the payment of arrears of pay, retiral benefits, etc., as the case may be, will be restricted to thirty-eight months prior to filing of the petition(s).

14. A photocopy of this order be placed on connected files.

(TRIBHUVAN DAHIYA)
JUDGE

16.02.2024
Maninder

Whether speaking/reasoned	:	Yes
Whether reportable	:	Yes