



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-830-1999 (O&M)

Reserved on 16.07.2024

Pronounced on 24.07.2024

Krishan MurariPetitioner

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Arun Jindal, Advocate with
Mr. Kanish Jindal, Advocate for the petitioner.

Mr. Surya Kumar, A.A.G., Punjab.

Mr. Rahul Sharma, Advocate
for respondent No.4.

NAMIT KUMAR J.

1. The petitioner has approached this Court by way of filing the instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of mandamus, directing the respondents to release the arrears of pay in the revised pay scale of Rs.2200-4000 w.e.f. 19.02.1986 to the petitioner, along with all consequential benefits with interest.
2. The facts, as have been pleaded in the present petition, are that the petitioner was appointed as Labour Welfare Officer in Punjab State Federation of Cooperative Sugar Mills Limited, Chandigarh (hereinafter referred to 'Sugarfed') vide appointment letter dated 10.02.1986 in the pay scale of Rs.605-1680 as per Sugar Wage Board. He joined on 19.02.1986 at Batala Cooperative Sugar Mills Limited, Batala. The pay scale of Rs.605-1680 was further revised to Rs.825-1580 w.e.f. 26.06.1986 and further to Rs.2130-3700 w.e.f. 01.04.1991



and the petitioner was granted the benefit of abovesaid two revisions of pay scale. The claim raised by the petitioner in the present writ petition is that he is entitled for the pay scale of Rs.2200-4000 w.e.f. 19.02.1986 (i.e. date of joining the service) instead of Rs.2130-3700 as one Gian Chand Gupta, who is working as Labour Welfare Officer in Printing and Stationery Department, Punjab was granted pay scale of Rs.2200-4000 w.e.f. 01.01.1986. As a matter of fact, the petitioner is claiming equivalent pay scale as granted to his counterpart working in the State of Punjab.

3. Written statement on behalf of respondent No.4-employer of the petitioner has been filed wherein it has been stated that the employees of the Sugarfed are granted the pay scale as per Common Cadre Rules by the Board of Directors of the Sugarfed, with the prior approval of the Registrar, Cooperative Societies, Punjab as envisaged under Section 84 of the Punjab Cooperative Societies Act, 1961 and not as per the Punjab Civil Services Rules. The relevant portion from the written statement is as under :-

“xx xx xx xx xx

3. *Para 3 of the petition is admitted to the extent that the pay scale of the petitioner was revised from Rs.605-1680 to Rs.825-1580 in view of the revision of pay scale with the approval of the Registrar Cooperative Societies, Punjab, Chandigarh. It is wrong and denied that the petitioner is entitled to payment as per the Punjab Civil Services Rules as alleged. The rules only provide for adoption of principle for fixation of pay. However, rule 3.12 of the rules clearly lays down that the present pay scales have been specified against each post/category of posts as given in annexure-I to V. As a matter of fact, rule 3.30 deals with the pay, which provides as under: -*

"3.30 Pay:



3.31 Except as provided otherwise in these rules, an employee appointed to a category of service of Sugarfed shall draw minimum in the scale fixed for that category. Provided further that the Recruiting Authority may allow initial salary at a higher stage in a pay scale for persons with higher qualification or better experience on appointment. "

Rule 1.30 of the rules also provides that the rules are to be administered by the Chief Executive Officer, i.e. Managing Director of Sugarfed.

4. Para 4 of the petition is admitted to the extent that the pay scale of the petitioner was revised to Rs.2100-3700 w.e. f. 1.4.1991 and the order annexure P-2 was passed. It is further submitted here that the Board of Directors of Sugarfed with prior approval of the Registrar, Cooperative Societies, Punjab, as envisaged under Section 84 of the Punjab Cooperative Societies Act, 1961, had revised the pay scales of the Common Cadre employees with effect from 1.4.1991, i.e. the date fixed for revision of pay scales of all the common cadre employees and the petitioner cannot claim any special status. It is wrong and denied that the petitioner is entitled to the revised pay scale w.e.f. 19.2.1986 in view of the relief having been granted to one Shri Gian Chand Gupta. The petitioner cannot draw any comparison as Gian Chand Gupta is a Punjab Government employee working in the Printing & Stationery Department and he is governed by the Punjab Civil Services Rules, whereas the petitioner is governed by the Punjab State Federation of Cooperative Sugar Mills Service (Common Cadre) Rules, 1981, amended in 1995. It is also wrong and denied that the petitioner is working on the same footing as that of Gian Chand Gupta. It is wrong and denied that the petitioner is entitled to the pay scale of Rs.2200-4000 w.e. f. 19.2.1986 as claimed.

5. Para 5 of the petition needs no reply, as the petitioner is neither concerned with the revision of pay scales by the Punjab Government till adopted by the Board of Directors of sugarfed with prior approval of the Registrar, Cooperative Societies, Punjab or with the Labour and Employment department.

xx xx xx xx xx

9. Para 9 of the petition is admitted to the extent that the pay scales of the employees in the common cadre



including the petitioner, have been revised in pursuance to the resolution dated 11.7.1998 which was approved by the Registrar, Cooperative Societies Punjab on 18.8.1998. The revised pay scales were made applicable w.e.f. 1.4.1998, However, for the purposes of fixation of pay in the revised pay scales, the date of revision was taken to be 1.1.1996 and therefore, it was specifically provided that no arrears would be paid w.e.f. 1.1.1996 to 31.3.1998 keeping in view the financial position of the cooperative sugar mills in the State. The Board of Directors have kept the option open with regard to the arrears depending upon the financial position of the cooperative sugar mills. The passing of order annexure P-5 is, thus, admitted.

xx xx xx xx xx”

4. Learned counsel for the petitioner submits that the similarly situated employee of the petitioner working in Printing and Stationery Department, Punjab has been granted pay scale of Rs.2200-4000 w.e.f. 01.01.1986, therefore, on parity, the petitioner is also entitled for the said pay scale instead of pay scale of Rs.2130-3700. In support of his contention, he has placed reliance upon the judgments passed by this Court in ***Kahan Singh Bali Vs. Regional Engineering College and another : 1995(2) RSJ 369; Krishan Lal and others Vs. Central Administrative Tribunal, Chandigarh Bench, Chandigarh and another : 2008(3) SCT 233; Sukhdev Singh Vs. State of Punjab : 2000(2) SCT 74 and Kuldip Singh and others Vs. The State of Punjab and another : 2002(1) RSJ 114.***

5. Per contra, learned counsel for respondent No.4, while, referring to the averments made in the written statement, submits that the petitioner being employee of the Sugarfed cannot claim parity with the Punjab Government employees as the Board of Directors of the Sugarfed, with the prior approval of the Registrar, Cooperative Societies, Punjab, is the competent authority to grant the pay scale



keeping in view the financial position of the Cooperative Sugar Mills in the State and therefore, the petitioner cannot claim parity with his counterparts working in the State Government Departments. He has placed reliance upon the judgment of Hon'ble Supreme Court in ***Harbans Lal and others Vs. State of Himachal Pradesh and others : (1989) 4 SCC 459.***

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

7. The facts of the case are not in dispute that the petitioner joined the services of the Sugarfed on 10.02.1986 as Labour Welfare Officer in the pay scale of Rs.605-1680 which was further revised to Rs.825-1580 w.e.f. 26.06.1986 and further to Rs.2130-3700 w.e.f. 01.04.1991. However, the petitioner is claiming the pay scale of Rs.2200-4000 w.e.f. 19.02.1986 (i.e. date of joining the service) on the plea that one Gian Chand Gupta, who is working as Labour Welfare Officer in Printing and Stationery Department, Punjab was granted pay scale of Rs.2200-4000 w.e.f. 01.01.1986 and therefore, the petitioner cannot be denied the said pay scale. The stand taken by respondent No.4 is that the employees of the Sugarfed are granted the pay scales as per the Common Cadre Rules by the Board of Directors of the Sugarfed with prior approval of the Registrar, Cooperative Societies, Punjab and not as per the Punjab Civil Services Rules, therefore, the employees of the Sugarfed cannot claim parity with the Punjab Government Employees. The claim of the petitioner cannot be accepted for the following reasons :-

(i) There are no pleadings in the petition with regard to



the duties and responsibilities of the post held by the petitioner in Sugarfed and in the Printing and Stationery Department, Punjab. There is also no averments made in the petition which would shed light on the comparative educational qualifications required for the post, the method of recruitment, the duties to be performed and the responsibilities to be discharged. In the absence of such pleadings and material on record, the prayer of the petitioner for grant of pay scale of Rs.2200-4000 cannot be adjudication upon and countenanced with.

The burden of proof in establishing parity in the pay-scales and nature of duties and responsibilities, is on the petitioner, however, the said burden has not been discharged by the petitioner as no such pleading to this effect has been given in the writ petition.

(ii) There is also no conscious decision of the Sugarfed at any point of time equating the post held by the petitioner in the Sugarfed with the same post existing in the Printing and Stationery Department of the Punjab Government.

8. The Hon'ble Supreme Court in ***Harbans Lal's case*** (*supra*) while considering the similar issue opined as under :-

"11. In the light of the aforesaid principles, we may now consider whether the equality claims of the petitioners could be allowed. We have carefully perused the material on record and gave our anxious consideration to the question urged. From the averments in the pleadings of the parties it will be clear that the Corporation has no regularly employed carpenters. Evidently the petitioners are claiming wages payable to the carpenters in Government service. We do not think that we could accept their claim. In the first place, even assuming that the petitioners' jobs are comparable with the counterparts in the government service, the petitioners cannot enforce the right to "equal pay for equal work". The discrimination complained of must be within the same establishment owned by the same management. A comparison cannot be made with counterparts in other establishments with different management, or even in establishments in different geographical locations though owned by the same master. Unless it is shown that there is a discrimination amongst the same set of employees by the same master in the same establishment, the principle of "equal pay for



equal work" cannot be enforced. This was also the view expressed in Meva Ram Kanojia v. A.I.I.M.S., [1989] 2 SCC 245. In the instant case, the petitioners are employed by a company incorporated under the Companies Act. They cannot claim wages payable to their counterparts in government service."

9. To the similar effect is the judgment of Hon'ble Supreme Court passed in ***Hukam Chand Gupta Vs. Director General, ICAR and others : 2012(4) SCT 698***. The relevant paras of the said judgment are as under :-

"20. We are also not inclined to accept the submission of the appellant that there can be no distinction in the pay scales between the employees working at Headquarters and the employees working at the institutional level. It is a matter of record that the employees working at Headquarters are governed by a completely different set of rules. Even the hierarchy of the posts and the channels of promotion are different. Also, merely because any two posts at the Headquarters and the institutional level have the same nomenclature, would not necessarily require that the pay scales on the two posts should also be the same. In our opinion, the prescription of two different pay scales would not violate the principle of equal pay for equal work. Such action would not be arbitrary or violate Articles 14, 16 and 39D of the Constitution of India. It is for the employer to categorize the posts and to prescribe the duties of each post. There can not be any straitjacket formula for holding that two posts having the same nomenclature would have to be given the same pay scale. Prescription of pay scales on particular posts is a very complex exercise. It requires assessment of the nature and quality of the duties performed and the responsibilities shouldered by the incumbents on different posts. Even though, the two posts may be referred to by the same name, it would not lead to the necessary inference that the posts are identical in every manner. These are matters to be assessed by expert bodies like the employer or the Pay Commission. Neither the Central Administrative Tribunal nor a Writ Court would normally venture to substitute its own opinion for the opinions rendered by the experts. The Tribunal or the Writ Court would lack the necessary expertise undertake the complex exercise of equation of posts or the pay scales.

*20-A. In expressing the aforesaid opinion, we are fortified by the observations made by this Court in ***State of Punjab Vs. Surjit Singh, 2009(3) S.C.T. 816 : (2009) 9 SCC 514***.*



In this case, upon review of a large number of judicial precedents relating to the principle of ‘equal pay for equal work’, this Court observed as follows:

“19...Undoubtedly, the doctrine of ‘equal pay for equal work’ is not an abstract doctrine and is capable of being enforced in a court of law. But equal pay must be for equal work of equal value. The principle of ‘equal pay for equal work’ has no mechanical application in every case. Article 14 permits reasonable classification based on qualities or characteristics of persons recruited and grouped together, as against those who were left out. Of course, the qualities or characteristics must have a reasonable relation to the object sought to be achieved. In service matters, merit or experience can be a proper basis for classification for the purposes of pay in order to promote efficiency in administration. A higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is also an acceptable reason for pay differentiation.....A mere nomenclature designating a person as say a carpenter or a craftsman is not enough to come to the conclusion that he is doing the same work as another carpenter or craftsman in regular service. The quality of work which is produced may be different and even the nature of work assigned may be different. It is not just a comparison of physical activity. The application of the principle of ‘equal pay for equal work’ requires consideration of various dimensions of a given job. The accuracy required and the dexterity that the job may entail may differ from job to job. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere. Normally a party claiming equal pay for equal work should be required to raise a dispute in this regard. In any event, the party who claims equal pay for equal work has to make necessary averments and prove that all things are equal. Thus, before any direction can be issued by a court, the court must first see that there are necessary averments and there is a proof.”

10. The abovesaid judgment has been followed by the Hon’ble

Supreme Court in ***State of Punjab and others Vs. Jagjit Singh and***



others : 2016 (4) SCT 641, wherein it has been held as under :-

“42. xx xx xx Our consideration, has led us to the following deductions:-

*(i) The ‘onus of proof’, of parity in the duties and responsibilities of the subject post with the reference post, under the principle of ‘equal pay for equal work’, lies on the person who claims it. He who approaches the Court has to establish, that the subject post occupied by him, requires him to discharge equal work of equal value, as the reference post (see – the Orissa University of Agriculture & Technology case, **Union Territory Administration, Chandigarh v. Manju Mathur, 2011(1) S.C.T. 830 : (2011) 2 SCC 452**, the Steel Authority of India Limited case, and the National Aluminum Company Limited case).*

(ii) The mere fact that the subject post occupied by the claimant, is in a “different department” vis-a-vis the reference post, does not have any bearing on the determination of a claim, under the principle of ‘equal pay for equal work’. Persons discharging identical duties, cannot be treated differently, in the matter of their pay, merely because they belong to different departments of Government (see – the Randhir Singh case, and the D.S. Nakara case).

(iii) The principle of ‘equal pay for equal work’, applies to cases of unequal scales of pay, based on no classification or irrational classification (see – the Randhir Singh case). For equal pay, the concerned employees with whom equation is sought, should be performing work, which besides being functionally equal, should be of the same quality and sensitivity (see – the Federation of All India Customs and Central Excise Stenographers (Recognized) case, the Mewa Ram Kanojia case, the Grih Kalyan Kendra Workers’ Union case and the S.C. Chandra case).

*(iv) Persons holding the same rank/designation (in different departments), but having dissimilar powers, duties and responsibilities, can be placed in different scales of pay, and cannot claim the benefit of the principle of ‘equal pay for equal work’ (see – the Randhir Singh case, **State of Haryana v. Haryana Civil Secretariat Personal Staff Association, 2002 (3) S.C.T. 674 : (2002) 6 SCC 72** and the Hukum Chand Gupta case). Therefore, the principle would not be automatically invoked, merely because the subject and reference posts have the same nomenclature.*

*(v) In determining equality of functions and responsibilities, under the principle of ‘equal pay for equal work’, it is necessary to keep in mind, that the duties of the two posts should be of equal sensitivity, and also, qualitatively similar. Differentiation of pay-scales for posts with difference in degree of responsibility, reliability and confidentiality, would fall within the realm of valid classification, and therefore, pay differentiation would be legitimate and permissible (see—the Federation of All India Customs and Central Excise Stenographers (Recognized) case and the State Bank of India case). The nature of work of the subject post should be the same and not less onerous than the reference post. Even the volume of work should be the same. And so also, the level of responsibility. If these parameters are not met, parity cannot be claimed under the principle of ‘equal pay for equal work’ (see - **State of U.P. v. J.P. Chaurasia, (1989) 1 SCC 121**, and the Grih Kalyan Kendra Workers’ Union case).”*

11. The judgments cited by learned counsel for the petitioner are not applicable and clearly distinguishable to the facts of the present case.
12. In view of the foregoing reasons as well as settled proposition of law laid down by the Hon’ble Supreme Court, the claim of the petitioner seeking pay parity with his counterpart working with the State Government cannot be countenanced with and, therefore, the present petition is accordingly dismissed.
13. 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