



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

Reserved on : 28.11.2024
Date of Decision : 09.12.2024

(i) CWP-7683-1997
Raj Pal and othersPetitioners

V/S

State of Haryana and othersRespondents

(ii) CWP-7684-1997
Dilbag Singh (deceased) through his LRs and othersPetitioners

V/S

Secretary to Government, Department of Local
Bodies, Haryana, Chandigarh and othersRespondents

CORAM : HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sandeep K. Sharma, Advocate for the petitioner(s).

Mr. Saurabh Mohunta, D.A.G., Haryana.

Ms. Suverna Mutneja, Advocate
for respondents No.3 & 4 in CWP-7684-1997.

NAMIT KUMAR, J. (ORAL)

1. This judgment shall dispose of both the above-said writ petitions, as common question of law and facts are involved for adjudication. For the sake of convenience, facts are taken from CWP No.7683 of 1997 titled as 'Raj Pal and others Vs. State of Haryana and others'.

2. The petitioners have filed the instant petition under Article 226 of the Constitution of India seeking a writ of mandamus, directing

the respondents to grant pre revised pay scale of Rs.480-760/- and

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revised pay scale of Rs.1200-2040/- w.e.f. 01.01.1986 to the petitioners instead of 01.05.1990.

3. The brief facts, as have been pleaded in the petition are that the petitioners were initially appointed as Water Pump Operators-II on work charge basis and thereafter, their services were regularized. The prescribed qualification for the post against which the petitioners are working was/is Matric with 02 years ITI Certificate and the petitioners possess the said qualifications. They were granted pay scale of Rs.400-660 and on revision of the pay scale w.e.f. 01.01.1986, they were granted the pay scale of Rs.950-1440/950-1500 and thereafter, the State Government constituted Pay Anomaly Removal Committee and on the basis of the recommendations of the said Committee, a notification dated 23.08.1990 was issued, whereby the pay scale of Rs.950-1440/950-1500 was revised to Rs.1200-2040 w.e.f. 01.05.1990. It is the case of the petitioner that although they have been granted the pay scale of Rs.1200-2040 w.e.f. 01.05.1990, however, they were entitled for the same w.e.f. 01.01.1986.

4. Written statement on behalf of respondents No.1 to 4 has been filed, wherein it has been stated that petitioners No.8 & 12 have passed 01 year ITI Course and the remaining petitioners have passed 02 years ITI Course and it has further been stated that as per notification dated 23.08.1990, the petitioners have rightly been granted the pay scale of Rs.1200-2040/- w.e.f. 01.05.1990 and they are not entitled for the same w.e.f. 01.01.1986. Thereafter, the petitioners have filed replication to the written statement filed by respondents No.1 to 4 reiterating the



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averments made in the writ petition. It has further been stated in the replication that Sh. Mahinder Singh, Sh. Virender Pal, Sh. Nafe Singh and Sh. Ram Pal, working on technical post with the same prescribed qualification, were granted the pay scale of Rs.1200-2040/- w.e.f. 01.05.1990. Rejoinder dated 02.03.1998 to the replication has been filed by respondents No.1 to 4, wherein it has been stated by the respondents that the petitioners are working as Assistant Pump Operators and are Matric with 02 years ITI Diploma except petitioners No.8 and 12, who have acquired 01 year ITI Certificate and they were initially appointed in the pay scale of Rs.100-160/- which was revised to Rs.400-600/- w.e.f. 01.04.1979; further revised to Rs.950-1400/- w.e.f. 01.01.1986 and further revised to Rs.1200-2040/- w.e.f. 01.05.1990. The relevant portion of the said rejoinder reads as under :-

“1. That the qualification of Asstt. Pump Operator (Petitioners) is Matriculation with 2 years ITI Diploma and they were initially appointed in the pay scale of Rs.100-160 revised to 400-600 w.e.f. 1.4.79 further revised to 950-1400 w.e.f. 1.1.86 and in view of notification dt. 23.8.90 (Annexure P/4) they were given the pay scale of Rs.1200-2040 w.e.f. 1.5.90 as per notification Annexure P/4 infact petitioners No.8 & 12 are not entitled to this scale which has been erroneously given to them as they have only one year I.T.I diploma and not two years I.T.I. This pay scale could have to be withdrawn in respect of the 2 Nos. petitioners as per Govt. clarification vide letter dated 19.12.97 (Annexure R/2). As regard others petitioners they can not claim higher pay scale on the basis of notification dt. 21.7.80 (Annexure P/17) as it has been withdrawn vide letter dt. 26.5.97 (Annexure R/3). The Govt, of Haryana



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has consequently revised the pay scale of Asstt. Pump Operator w.e.f. 1.5.90 to that of 1200-2040 and the petitioners can not claim this scale from an earlier date as has been held in S.K. Bishnoi V/s State of Haryana 93(3) RSJ 444. It is not open to them to challenge these old pay scales at this belated stage after 10-17 years.

xx xx xx xx xx xx

ON MERIT

xx xx xx xx xx xx

3. *In reply to para No.3 of the replication it is submitted that, it is admitted that the pay scale of work charged employees were revised w.e.f. 1.4.81 instead of 1.4.79 but the notification Annexure P/17 in which the pay scale of Asstt. Pump Operator/Pump Operator is shown 130-180 was withdrawn vide letter dt. 26.5.97 (Annexure R/2). Further letter dated 30.3.82 relating to revision of pay scales is annexed as Annexure R/1 vide which it is clearly shows that the pay scale of Rs.120-250 is admissible to the technical post who are Matric with Two Years ITI Certificate prior to 1.4.79 and 400-660 on 1.4.79. Except petitioner No.2 all the petitioners were appointed after 1.4.79. The petitioner No.2 was appointed on 25.5.72 in the pay scale of Rs.42½ -52½ and 100-160 w.e.f. 1.4.78 and 400-600 w.e.f. 1.4.79, so, the petitioners can not claim the pay scale of Rs.130-180 from an earlier date. Further the case of Mohinder Singh, Virender Paul, Nafe Singh and Ram Pal is pending before the Hon'ble High Court titled C.W.P. No.257/97 Virender Paul and others V/s State of Haryana, so the letter dated 27.9.96 has no bearing till the decision of the Hon'ble High Court as this letter has been withdrawn vide order dt. 24.12.96 (Annexure R/4). In fact the operation of this letter dt. 24.12.96 has been stayed till final decision of CR 257/97.”*



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5. All the petitioners have retired from service during the pendency of the present writ petition. The matter was heard by this Court on 03.09.2024 and the following order was passed :-

“Learned State counsel, on instructions from Sh. Virender Kumar, Sub-Divisional Engineer, Office of Public Health Engineering Division No.1, Panipat, submits that notification dated 23.08.1990 (Annexure P-4), whereby the benefits of technical pay scale has been granted to the technical post, has been implemented w.e.f. 01.05.1990 and no employee has ever been granted the benefit of the technical pay scale w.e.f. 01.01.1986. He further submits that even the said notification has already been withdrawn by the Haryana (Abolition of Distinction of Pay Scale Between Technical and Non-technical Post) Act, 2014. He seeks time to file additional affidavit to this effect.

On his request, adjourned to 24.09.2024.

Photocopy of this order be placed on the file of other connected case.”

6. In pursuance to the abovesaid order, additional affidavit of Mr. Karan Behal, Executive Engineer, Public Health, Division No.1, Panipat, on behalf of respondents No.1 to 4 has been filed, wherein it has been stated as under :-

“xx xx xx xx xx

2. *That the petitioners herein earlier working as Water Pump Operator Grade-II are praying for pay scale of Rs.1200-2040 w.e.f 01.01.1986 and pre revised scale of Rs.480-760. It is submitted herein that the Haryana Government revised the pay scale of various category of employees and vide order dated 30.3.1982 (P-2), the pay scale of Technical post wherein the minimum qualification*



prescribed was Matric with two years of ITI Diploma, which was revised to Rs.480-760 w.e.f. 1.2.1981 instead of Rs.400-600/420-700 and as per said notification dated 30.03.1982 petitioners were in the pay scale of Rs.400-600 and the same was revised to Rs.950-1400 w.e.f. 1.1.1986.

3. *That the said notification dated 30.3.1982 has already been withdrawn by the State Government after coming in the force The Haryana (Abolition of Distinction of Pay Scale Between Technical and Non-Technical Posts) Act 2014. Wherein as per the same, Section 4 clearly shows that instruction dated 30.3.1982 has been withdrawn w.e.f. the date of their coming into force. Copy of above said act is appended as **Annexure R-1**.*

4. *That only four persons namely Mohinder Singh (Fitter) Nafe Singh (Electrician), Rampal Kundu (Fitter) & Virender Pal (Painter) who were working in the office of Public Health Engineering Division No.1, Panipat were granted technical pay scale from 01.01.1986 copy of order dated 27.09.1996 is appended as **Annexure R-2**. Later on the said order dated 27.09.1996 were withdrawn vide office order No.15290 dated 24.12.1996. However, technical pay scale of Mohinder Singh who was working as Fitter was not withdrawn who was having essential qualification i.e. Matric + ITI (2 years) as per notification dated 30.03.1982 copy of notification is appended as **Annexure R-3**.*

5. *That above said withdrawn order Annexure R-2 was challenged in CWP No.257 of 1997. Wherein vide order dated 07.01.1997 withdrawal order Annexure R-2 was stayed copy of order dated 07.01.1997 is appended as **Annexure R-4**. That above said writ petition as been finally decided vide order dated 13.03.2024 the copy of the same is appended as **Annexure R-5**.*



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6. *That presently all three petitioners in CWP No.257 of 1997 are getting technical pay scale w.e.f. 01.01.1986 as per of stay order dated 07.01.1997 issued by Hon'ble Punjab & Haryana High Court Chandigarh and the said petition is finally decided vide order dated 13.03.2024.*

7. *That further it is submitted that the pay scales of the posts were modified w.e.f. 1.5.1990 vide notification dated 23.8.1990 (P-4). Thus, the petitioners were granted the modified pay scale w.e.f. 1.5.1990.*

8. *That no employee working as WPO Grade-II have been granted technical pay scale of 1200-2040 w.e.f 01.01.1986.”*

7. In the additional affidavit, it has been stated by the respondents that four persons namely Sh. Mohinder Singh (Fitter), Sh. Virender Pal (Painter), Sh. Nafe Singh (Electrician) and Sh. Ram Pal Kundu (Fitter) were granted technical pay scale w.e.f. 01.01.1986 vide order dated 27.09.1996 and lateron the said order was withdrawn vide order dated 24.12.1996 and the technical pay scale of Sh. Mohinder Singh, who was working as Fitter, was not withdrawn. The said order of withdrawal dated 24.12.1996 was challenged in *CWP No.257 of 1997 titled as Virender Paul and others Vs. State of Haryana and others'*, wherein the withdrawal order was stayed by this Court vide order dated 07.1.1997, and the said writ petition was finally disposed of vide order dated 13.03.2024 with the following order :-

“Learned counsel for the petitioners does not press the petition as the claimed relief already stands granted to him in terms of the Section 4 of The Haryana (Abolition of Distinction of Pay Scale between Technical and Non-



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Technical Posts) Act, 2014, whereby the impugned instructions dated 30.03.1982, have been withdrawn with effect from the day it came into effect.

Disposed of as such.”

8. Learned counsel for the petitioners has contended that since the anomaly has been removed by granting the pay scale of Rs.1200-2040, the same ought to have been removed w.e.f. 01.01.1986 instead of 01.05.1990. He has placed reliance upon the judgments passed by Division Bench of this Court in ***CWP No.1804 of 1996 titled as ‘Jai Parkash and others Vs. State of Haryana and others’ decided on 24.04.1997*** and ***CWP No.11793 of 2007 titled as ‘Suraj Bhan Vs. State of Haryana and others’ decided on 01.04.2008.***

9. Per contra, the learned State counsel has submitted that the petitioners have rightly been granted the pay scale of Rs.1200-2040 w.e.f. 01.05.1990 in terms of notification dated 23.08.1990 and no person except, Sh. Mohinder Singh (Fitter), Sh. Virender Pal (Painter), Sh. Nafe Singh (Electrician) and Sh. Ram Pal Kundu (Fitter) have been granted the said pay scale w.e.f. 01.01.1986. He further submitted that all the notifications whereby, the technical pay scales were granted to the employees have been withdrawn by the State Government by the 'Haryana (Abolition of Distinction of Pay Scale Between Technical and Non-Technical Posts), Act, 2014' and in terms of Section 4 of the said Act, the employees who have already been granted the technical pay scales have been protected.

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



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11. The facts which have emerged from the abovesaid pleadings are that the State Government revised the pay scales of its employees w.e.f. 01.01.1986 and the petitioners were placed in the pay scale of Rs.950-1400/- which has further been revised to Rs.1200-2040/- w.e.f. 01.05.1990 only for those categories who are having qualification of Matric and 02 years ITI Certificate. The present case is a case of further revision of pay scale of certain sets of employees having the above-said qualification, who are working against technical post. It is not a case of removal of pay anomaly. Annexure A to the notification dated 23.08.1990, whereby the pay scales were modified from 01.01.1986 to 01.05.1990 reads as under :-

“Annexure-A

(Annexure to F.D. Letter No.6/23/3PR (FD)-88 dated 23rd August, 1990)

Sr. No.	Name of the department	Name of the post	Existing pay scale as on 1.1.1986	Modified scale of pay w.e.f. 1.5.1990
xx	xx	xx	xx	xx
xx	xx	xx	xx	xx
40.	General recommendations regarding technical posts in various departments for which minimum educational qualification prescribed is Matric with I.T.I. certificate/Polytechnic.		750-940	1200-2040
			775-1025	(it has been decided that further recruitment of non-Matric be stopped.
			800-1150	
			950-1400	
			950-1500	
xx	xx	xx	xx	xx”

12. Similar issue came up for hearing before the Division Bench of this Court in **Jagroop Singh Vs. State of Haryana : 2001(3) SCT 124**, wherein the similar claim made by Water Pump Operators was accepted by this Court and they were held entitled for the technical pay scale of Rs.1200-2040/- w.e.f. 01.01.1986 instead of 01.05.1990.



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The said judgment was challenged by the State of Haryana before the Hon'ble Supreme Court in ***Special Leave to Appeal (Civil) No.16505 of 2001 titled as 'State of Haryana and others Vs. Jagroop Singh' decided on 12.07.2002***, wherein Division Bench judgment of this Court was set aside by observing as under :-

"Leave granted.

The State of Haryana is in appeal against the impugned judgment of Punjab and Haryana High Court. By the impugned judgment, the High Court has come to the conclusion that the respondent would be entitled to the higher scale of pay Rs.1200-2040 with effect from 1.1.1986, but added a rider that this will be restricted to 38 months preceding the filing of the Writ Petition. Be it be stated that the respondent was appointed as an Assistant Pump Operator on 21.10.1985 in the pay-scale of Rs.400-600. After the recommendation of the 4th Pay Commission, he was given the scale of pay of Rs.950-1500 with effect from 1.1.1986. There had been a lot of grievances and demand by these categories of people before the Government. Government ultimately sympathetically considered the representations received from several quarters and suggestions made by the different authorities and decided to modify the scale of pay in respect of some posts with effect from 1.5.1990. So far as the respondent is concerned, he was granted the pay scale of Rs.1200-2040 with effect from 1.5.1990. The respondent approached the High Court claiming that he would be entitled to the aforesaid pay-scale with effect from 1.1.1986, the date on which the 4th Pay Commission recommended change of the earlier pay-scale. The respondent, however, did not assail the legality of the notification issued by the State



Government modifying the pay-scale. The High Court is of the opinion that once the Government takes a decision modifying the recommendation of the Pay Commission, it should relate back to the date on which the recommendation of the Pay Commission had been given effect to. In our view, the High Court was in error in coming to the aforesaid conclusion. The Government on the basis of representations made and suggestions received as well as qualifications for different posts have modified the pay-scale so far as the respondent's post is concerned to Rs. 1200-2040 with effect from 1.5.1990, and it appears that the recommendations in respect of all these posts were with effect from that particular date, namely, 1.5.1990. We see no infirmity with that decision of the Government requiring interference by the Court in exercise of its discretionary jurisdiction under Article 226 of the Constitution, particularly when the respondent in the Writ Petition never assailed the legality of the aforesaid notification. In these circumstances, we set aside the impugned judgment of the High Court and allow this appeal. We direct that the respondent would be entitled to higher pay scale with effect from 1.5.1990.”

In the present case also the notification dated 23.08.1990 has not been challenged by the petitioners.

13. A Full Bench of this Court in ***Rajbir Singh and others Vs. Haryana State Electricity Board and others : 2009(3) SCT 543***, while considering the similar issue raised by the Assistant Lineman of the Haryana State Electricity Board and considering a Division Bench Judgment of this Court in ***Jai Parkash's case (supra)***, on which learned



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counsel for the petitioners has placed reliance, has rejected the claim for grant of pay scale of Rs.1200-2040/- w.e.f. 01.01.1986.

14. Since the similar claim of granting revised pay scale of Rs.1200-2040/- w.e.f. 01.01.1986 instead of 01.05.1990 to ‘Assistant Pump Operators’ has already been rejected by Hon’ble Apex Court in *Jagroop Singh’s case (supra)*, the claim of the present petitioners for the same benefit cannot be acceded to in view of law laid down in the abovesaid judgments.

15. In view of the above finding, the present petitions are hereby dismissed with no order as to costs.

09.12.2024
kothiyal

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No