



CWP-4256-2021 (O&M)

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

247 (10 Cases)

**CWP-4256-2021 (O&M)
Date of Decision :11.09.2024**

Monica Saini

..Petitioner

Versus

State of Punjab and others

...Respondents

CWP-4259-2021

Sukhwinder Singh

..Petitioner

Versus

State of Punjab and others

...Respondents

CWP-4261-2021

Amanpreet Kaur

..Petitioner

Versus

State of Punjab and others

...Respondents

CWP-4263-2021

Mohhamad Khalad

..Petitioner

Versus

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State of Punjab and others

...Respondents

CWP-4281-2021

Balwinder Kumar

..Petitioner

Versus

State of Punjab and others

...Respondents

CWP-4288-2021

Amrinder Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

CWP-4296-2021

David Gill

..Petitioner

Versus

State of Punjab and others

...Respondents

CWP-4362-2021

Manpreet Kaur

..Petitioner

Versus

State of Punjab and others

...Respondents



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CWP-4392-2021

Harjinder Kaur Gotra

..Petitioner

Versus

State of Punjab and others

...Respondents

CWP-4147-2021

Amrita

..Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Anupama Sharma, Advocate for the petitioner(s)
in all writ petitions.

Mr. Charapreet Singh, AAG, Punjab.

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Harsimran Singh Sethi, J. (Oral)

By this common order, above mentioned writ petitions are being disposed of as all the writ petitions involve same question of law on similar facts.

For the purpose of this order, facts are being taken from **CWP-4257-2021 titled as Monia Saini vs. State of Punjab and others.**

In the present petitions, grievance being raised by the petitioners is that the petitioners applied for the post of Psychiatrist Social



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Worker as advertised by the respondents vide advertisement dated 26.07.2011(Annexure P/1) in the pay scale of Rs.10300-34800 + grade pay of Rs.3800/-. The petitioners competed for the post in question and were ultimately selected and appointed vide order dated 23.07.2013 (Annexure P-2) and appointment was made in the same grade pay as mentioned in the advertisement.

Learned counsel for the petitioners submits that the grievance of the petitioners is that though, on the date when the advertisement was issued, grade pay of the post in question was Rs.3800/- but within a period of six months of the advertisement, the State Government revised the pay scale of the post in question vide notification dated 21.12.2011 (Annexure P/3) so as to grant grade pay of Rs.4200/- w.e.f. 01.12.2011 to the said post hence, on the date, when the petitioners were appointed as Psychiatrist Social Worker i.e. July, 2013, the grade pay admissible to the said post was Rs.4200/- and not Rs.3800/- but without considering the said fact, the petitioners were granted the grade pay of Rs.3800/- on the ground that the same found mentioned in the advertisement.

Learned counsel for the petitioners argues that a particular pay scale has been given to the post in question vide notification issued by the Government dated 21.12.2011 (Annexure P/3) hence, on the date of appointment of the petitioners, they were also entitled for the said grade pay, which is admissible to the other employees, who are working on the same post hence, the respondents are under an obligation to grant the petitioners grade pay of Rs.4200/- from the date of their appointment with



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Learned counsel for the respondent-State submits that petitioners have been given the same pay scale, which was part of the advertisement and hence, the petitioners cannot claim higher grade pay even if, in the interregnum, the said pay scale has been enhanced by the Government as no right exists with the petitioners to claim the grade pay other than the one mentioned in the advertisement.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

It is a settled principle of law that an employee is entitled for the pay scale attached to the post on which, he/she is working as notified by the Government. It is a conceded fact that on the date when the advertisement was issued, pay scale to the post of Psychiatrist Social Worker was Rs.10300-34800 + grade pay of Rs.3800, which was also mentioned in the advertisement but after the issuance of advertisement, vide notification dated 21.12.2011 (Annexure P/3) issued by the Government, grade pay of the post in question was revised to be Rs.4200/- instead of Rs.3800/- w.e.f 01.12.2011. The said fact is clear from the Notification dated 21.12.2011 (Annexure P/3), which has been conceded by the respondent-State. Once, the pay scale of the post on which the petitioners were recruited underwent a change, the respondents were under an obligation to grant the petitioners said revised pay scale, which existed in the Rules governing the service on the date when the petitioners were appointed.

It is a conceded position that in July, 2013, the other employees, who were working in the department on the same post of



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Psychiatrist Social Worker were getting grade pay of Rs.4200/- whereas, petitioners were granted grade pay of Rs.3800/-. Hence, the petitioners are entitled for the grade pay of Rs.4200/-, which is attached to the post in question keeping in view the rules governing the service coupled with the Notification dated 21.12.2011 (Annexure P/3) issued by the Government.

Further, in case, the claim of the respondent-State that petitioners are only entitled for grade pay of Rs.3800/- as mentioned in the advertisement is accepted, the same will create anomaly. The employees, who are working in the department prior to the appointment of the petitioners are getting grade pay of Rs.4200/- whereas, the petitioners who, after their appointment are working on the same post and discharging the same nature of duties are being paid grade pay of Rs.3800/-. Two different grade pay cannot be granted to the same post and that too without any valid justification.

In the present petitions, there is no differentiating fact qua the qualification or nature of duties of the petitioners as compared to the other Psychiatrist Social Worker, who are working in the department prior to the appointment of the petitioners, has been brought to the notice of this Court. Hence, the petitioners are held entitled for the grade pay of Rs.4200/- from the date of their appointment on the post of Psychiatrist Social Worker along with consequential benefits. The respondents are directed to grant the petitioners grade pay of Rs.4200/- from the date of their appointment with all consequential benefits along with arrears.

At this stage, learned counsel for the petitioners submits that

the petitioners are also entitled for the grant of benefit of interest on the



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arrears.

The said prayer is being objected to by the learned State counsel on the ground that the said benefit has not been claimed by the petitioners in the writ petition.

It is a settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No.6325-6326 of 2015 titled as, Mrs. Akella Lalitha vs. Sri Konda Hanumantha Rao and another, decided on 28.07.2022** that the relief, which has not been claimed in the writ petition cannot be allowed in favour of the petitioners.

Keeping in view the said settled principle of law, no benefit of interest on the arrears can be granted to the petitioners as the same has not been claimed in the petition.

Present petitions are allowed in above terms.

Civil miscellaneous application pending, if any, is also disposed of.

A photocopy of this order be placed on the file of connected cases.

September 11, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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