



206

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CWP-7605-2017 (O&M)****Date of Decision : 22-11-2024****JASWANT KAUR AND ORS****.....Petitioner(s)****VERSUS****STATE OF PUNJAB AND ANR****.....Respondent(s)****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. C.L Sharma, Advocate for the petitioners.

Mr. Charanpreet Singh, AAG Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the grievance being raised by the petitioners is that that the petitioners who are working on the post of Lady Demonstrator, that they are entitled for the pay scale of post of Clerk as, initially, the pay scale of the post of Lady Demonstrator and that of a Clerk was the same.

Upon notice of motion, the respondents have stated that the objection which has been taken while rejecting the claim of the petitioner while passing of order dated 02.01.2014, copy of which has been appended as Annexure P-8, is valid as the duties of the post of Clerk and that of a Lady Demonstrator are different and merely that at any given point of time the pay scale of Lady Demonstrator was equivalent to that of the Clerk, the same cannot be claimed unless and until both the posts have been equated.

Learned counsel for the respondent-State further submits that in the present case the post of Lady Demonstrator and that of a Clerk was never equated hence, the claim of the petitioners that they are entitled for the same pay scale is liable to be rejected as, not only the qualification for appointment to two posts are different but even the nature of duties of both the posts are different.

Learned State counsel further submits that as a particular pay scale has been given to the post of Clerk and to that of Lady Demonstrator by the Pay Commission which consists of experts, this Court may not like to interfere with the recommendations of the expert body.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

It is a conceded fact before this Court that the cadre of the post of Clerk and that of a Lady Demonstrator are different. It is also a conceded position that the qualification required for appointment to the post of Lady Demonstrator and Clerk are also different. Nature of duties of both the posts are not similar.

That being so, claiming the benefit of same pay scale as being given to the Clerk, by the Lady Demonstrator is not made out. It is only in case, both the posts are similar qua the qualification, nature of duties, an assertion can be made for consideration but not where, the posts qua which, the equivalence is being claimed for the grant of pay scale is not same in any manner either for qualification required for appointment or for the duties being discharged by the occupants of two posts.

Further, Hon'ble Supreme Court of India in ***SLP No.7130 of 2024*** titled ***"State of Uttar Pradesh and anr. Vs. Virendra Bahadur***

Katheria and ors.”, decided on 15.07.2024, wherein it has already been held that where the posts have been equated by the State by taking a conscious decision, the parity can be claimed. In the present case, the parity is being claimed without there being any equation of the post. At no given point of time, the post of Lady Demonstrator or the Clerk equated. In the absence of the same, the parity cannot be claimed by the Lady Demonstrator so as to claim the pay scale as being given to the Clerk. The relevant paragraph of the said judgment is as under:-

“53. It needs no emphasis that prescription of pay scale for a post entails Policy decision based upon the recommendations of an expert body like Pay Commission. All that the State is obligated to ensure is that the pay structure of a promotional or higher post is not lower than the feeder cadre. Similarly, pay parity cannot be claimed as an indefeasible enforceable right save and except where the Competent Authority has taken a conscious decision to equate two posts notwithstanding their different nomenclature or distinct qualifications. Incidental grant of same pay scale to two or more posts, without any express equation amongst such posts, cannot be termed as an anomaly in a pay scale of a nature which can be said to have infringed the right to equality under Article 16 of our Constitution.”

Apart from this, the recommendations have been made for the grant of pay scale to a particular post by the Experts. Once, the Experts have evaluated all the aspects including minimum qualification required for a post and nature of duties and have described a particular pay scale for the post of Clerk and that of a Lady Demonstrator, this Court cannot go into the recommendations of the State so as to disturb them and to grant a particular benefit to the Lady Demonstrator only on the ground that at one given point of time, the pay scale of the post of Lady Demonstrator was equivalent to that of a Clerk.

Keeping in view the above, no ground is made out for interference in the facts and the circumstances of the preset case.

Hence, the present petition stands dismissed.

Pending application, if any, also stands disposed of.

22-11-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
 Whether reportable: YES/NO