



(216) IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-25771-2019

Date of Decision: 16.07.2024

DR. V.P.SINGH

...Petitioner

Vs.

CH. CHARAN SINGH, HARYANA AGRICULTURAL UNIVERSITY,  
HISSAR AND OTHERS

...Respondents

CORAM:- HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Nilesh Bhardwaj, Advocate  
for the petitioner.

Mr. Nishant Indal, Advocate for  
Mr. Anil Mehta, Advocate  
for the respondents.

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed seeking a writ of *certiorari* quashing the order dated 08.04.2019, Annexure P-11, passed by the third respondent rejecting the petitioner's representation, dated 21.11.2018, Annexure P-8, regarding his claim for stepping up of pay equivalent to that of his junior counterpart. Further, a writ of *mandamus* has been sought directing the respondents to give effect to the office order dated 20.06.2018, Annexure P-3, passed by the second respondent whereby the petitioner's pay was stepped up equivalent to that of his junior.

2. As per facts apparent on record, the petitioner was appointed as District Extension Specialist (Horticulture) at the respondent University Krishi Vigyan Kendra, Mahendergarh, on 09.11.1989, with a starting pay of ₹2425, i.e., ₹2200+225. Since he had Ph.D. degree at the time of appointment, he was granted the benefit of three advance increments in terms of the applicable

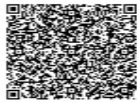
Rules/instructions while fixing the pay. One of the petitioner's junior, Dr. R.S.



Saini was appointed as District Extension Specialist, Horticulture on 18.12.1989, and joined as such at Krishi Vigyan Kendra, Gurugram; he did Ph.D while in service. Accordingly, he was also granted the benefit of two advance increments as per the applicable rules/instructions which raised his pay higher than that of the petitioner. The petitioner, however, came to know about the anomaly in his pay *vis-a-vis* his junior, close to his superannuation on 31.07.2018, and requested the University to step up his pay. Accepting the request and realising that the petitioner's pay was required to be stepped up, an office order dated 20.06.2018, was passed whereby his pay was stepped up with effect from 24.12.1998 equivalent to that of his junior counterpart.

2.1. This order, however, was not implemented due to certain audit objections having been raised, leading to the petitioner making a representation seeking its implementation. The matter kept pending and was finally rejected vide impugned order dated 08.04.2019. As per the respondents case, the petitioner had already been granted three advance increments for Ph.D on the date of joining on 09.11.1989, under the old/pre-revised pay scales, whereas his junior was granted the same benefit in the revised pay scale on 24.12.1998; therefore, the former's pay was not required to be stepped up equivalent to that of his junior. In case it is done, the petitioner will get the benefit of five increments for Ph.D which is not permissible. On this account, his representation was finally rejected.

3. Learned counsel for the petitioner contends that there is no dispute on the facts that the petitioner's junior was getting more pay than him. The respondents themselves have realised their mistake and passed the order, dated 20.06.2018, giving him the due benefit. The grounds on which the petitioner's representation has been rejected vide the impugned order, is not sustainable in



view of the law laid down in *Rawail Singh and others v. State of Punjab and another*, 1995 (4) S.C.T. 481. He has referred to another judgment of this Court also, rendered in *Chandigarh Administration and another v. Ram Chander Saini and another*, 2009 (4) PLR 718.

4. Learned counsel for the University is not in a position to dispute the law laid down in the abovementioned cases, but contends that arrears payable on account of stepping up the petitioner's pay should be restricted to thirty-eight months prior to filing of the petition. It is because the petitioner himself never raised a grievance against the lesser pay being drawn by him right up to the end of service career.

5. Heard.

6. The petitioner's case was rejected on the ground that difference in his pay *vis-a-vis* that of his junior arose from 24.12.1998, only due to grant of two increments to the latter for Ph.D. qualification in the new/revised pay scales, and the same benefit already stood granted to the petitioner though in the pre-revised scale of pay. Any stepping up of pay now, will give additional increments to the petitioner for Ph.D. which are not permissible. The reasoning is flawed, as in the event of junior's pay being higher for any such reason, the senior is entitled to stepping up of pay to that level as the latter cannot draw lesser pay than the former. This is a settled proposition of law, and reference can be made to the judgment rendered on similar facts in *Rawail Singh* case (*supra*), which lays down:

4. ... A reading of the above clearly indicates that an anomaly has arisen whereby Masters and Mistresses with post-graduate qualifications, who joined on or before 1.1.1978 or acquired the post-graduate qualifications before that date, though were given



two or three increments according to their divisions in the post-graduation, have started getting less pay compared to the Masters and Mistresses who entered into service with post-graduate qualifications or acquired the post-graduate qualifications on or after 1.1.1978, but before 19.2.1979. The latter class of Masters and Mistresses got two or three increments, as the case may be, in the revised pay scale of Rs.620-1200. The question, thus, arises for consideration is as to whether the petitioners who joined service with post-graduate qualifications on or before 1.1.1978 or acquired these qualifications before that date, are entitled to be brought at par with Masters and Mistresses who joined service with post-graduate qualifications or improved their post-graduate qualifications after 1.1.1978, but before 19.2.1979.

5. ... In this view of the matter, senior persons are certainly entitled to all those benefits which their juniors in the same cadre are getting i.e. the pay of a senior cannot be less than that of a junior. In this case too, the persons who joined service with Post Graduate qualifications or acquired these qualifications after 1.1.1978, have started getting more pay compared to those who joined service with Post Graduate qualifications on or before 1.1.1978 or acquired the said qualifications before 1.1.1978. Respondents have not pointed out any reason for creating and not removing the anomaly in question, except the ground that the petitioners have been granted two or three increments, as the case may be, in the unrevised pay scale and cannot be given the same benefit for the second time. This stand of the State has resulted in

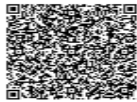


an anomalous situation, i.e. juniors have started getting more pay compared to their seniors, which is wholly unjust, unfair and inequitable. Fixing of pay of the juniors in a higher scale than that of seniors, is clearly discriminatory and violative of Article 14 of the Constitution of India, and the action of the State in depriving the petitioners of their justifiable right cannot be sustained. Petitioners, thus, are entitled to be brought at par with that of their juniors.

7. Another case that can be referred to is, *Chandigarh Administration* case (*supra*), wherein the Court held as under:

8. On the touchstone of the criteria noticed above, we are of the view that the respondent employee Ram Chander Saini and his junior Charan Singh Saini are performing the same duty as a teacher. Their qualifications, mode of recruitment/appointment, nature of work and responsibilities are equal. The only difference is that the respondent employee Ram Chander Saini had joined the service earlier than Charan Singh Saini and was granted benefit of three increments for possessing higher qualification earlier, when the rate of increment was lower. Therefore, the principle of 'equal pay for equal work' can be invoked in the present case and the disparity of senior person getting less salary than the junior can be removed.

8. As per the settled position of law, the petitioner is entitled to stepping up of pay which will have effect on his service as well as retiral/pensionary benefits. However, the petition has been filed after



unexplained delay of about twenty years. Accordingly, it is deemed appropriate to confine the admissible arrears to thirty-eight months prior to filing of the petition.

9. In view of the discussion, the petition is allowed and the impugned order, dated 21.11.2018, is set aside. The respondents are directed to step up the petitioner’s pay equivalent to that of his junior counterpart, Dr. R.S. Saini, with effect from the date of anomaly and release all consequential service as well as pensionary benefits; however, the arrears accruing on that account will be payable only for thirty-eight months prior to filing of the petition, i.e., 05.09.2019. There shall be no order as to costs.

(TRIBHUVAN DAHIYA)  
(JUDGE)

16.07.2024  
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|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |