

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

CWP-15187-1997 (O&M)
Reserved on: 25.02.2025
Pronounced on: 28.02.2025

MANJIT SINGH AND OTHERS

... PETITIONERS

Vs.

PUNJAB STATE SEEDS CORPORATION LIMITED THROUGH
ITS CHAIRMAN-CUM-MANAGING DIRECTOR

... RESPONDENT

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Argued by:- Mr. Inayat Khullar, Advocate, for the petitioners.

Mr. Y.P. Singla, Advocate, for the respondent.

DEEPAK GUPTA, J.

By way of this Writ Petition filed under Article 226/227 of the Constitution of India, petitioner prays for issuance of the writ in the nature of mandamus by directing the respondent to grant the petitioner the pay scale of ₹1800-3200 w.e.f. 01.01.1986 i.e. the pay scale granted to the B-grade Assistants and Cashiers, with whom the post of Assistant Foreman was equated and that the respondents be further directed to grant all the consequential benefits to the petitioners such as fixation of pay in the said pay scale, arrears of pay etc.

2.1 Petitioners were appointed as Assistant Foreman in respondent - Punjab State Seeds Corporation Limited during the period 1978-1982 in pay scale of ₹160-400. On the recommendation of the 2nd pay commission Punjab, the pay scales of the Punjab Government employees were revised w.e.f. 01.01.1978. The Board of Directors of the respondent-Corporation constituted a committee, which recommended that post of Assistant Foreman in the pay scale of ₹160-140 be equated with that of Cashier and B-grade Assistant. It was recommended that the pay scale of Assistant Foreman be revised to ₹570-1080 w.e.f. 01.01.1978 as has been granted to Cashier and B-grade Assistants. The said recommendations were placed before board of directors in its meeting

held on 20.06.1980 and in the column of existing pay scale of the Assistant Foreman, it was shown as ₹160-400 and in the revised pay scale, it was shown as ₹570-1080. However, at some stage, cutting was made over the scale of ₹570-1080 and it was made to ₹510-940. The said proceedings are Annexure P3/A. The representations made by the petitioners against the aforesaid anomaly was accepted by the respondent-corporation and vide order dated 31.12.1986 *Annexure P4*, the Assistant Foremen were granted the pay scale of ₹570-1080 vide order dated 31.12.1986.

2.2 Thereafter, on the recommendation of the 3rd pay commission in Punjab, the pay scale of the Punjab Government employees were again revised from 01.01.1986. All those employees, who were in the pay sale of ₹570-1080 were granted the pay scale of ₹1500-2640 w.e.f. 01.01.1986. Respondent-corporation decided to grant identical pay scales to its employees w.e.f. 01.01.1986 and accordingly, Assistant Foreman, Cashiers and B-grade Assistants, who were earlier in the pay scale of ₹570-1080 were granted the pay scale of ₹1500-2640.

2.3 Later on, State of Punjab, constituted a committee for removing the anomalies in the pay scales of its employees and on the recommendations of the said committee, State of Punjab issued notification dated 15.06.1990 deciding therein that B-grade Assistants as well as Cashiers, who were in the pay scale of ₹570-1080 be granted the revised pay scale of ₹1800-3200 w.e.f. 01.01.1986. Copy of said notification is *Annexure A7*. Order dated 12.06.1992 was issued revising the pay scales of its employees on the pattern of Punjab Government and all those categories of posts, who were in the pay scale of ₹1500-2640 were granted the pay scale of ₹1800-3200 including the Cashiers and B-grade Assistants. However, said benefit was not extended to the petitioners despite repeated representations made by them. Petitioners were intimated by the Chairman-cum-Managing Director in its meeting held on 04.08.1997 that proposal to grant pay scale of ₹1800-3200 to the Assistant Foreman as per Punjab Government notification dated 16.06.1990 was not acceptable due to some ban imposed by the Government.

2.4 Abovesaid action of the respondent has been assailed by the petitioners before this Court by way of this petition and it is contended that it is highly illegal, arbitrary, discriminating and against the principles of natural justice and violative of Articles 14 and 16 of the Constitution of India. It is also contended that right of the petitioners to claim the pay scale of ₹1800-3200 cannot be denied on technical grounds only.

3.1 Contesting the petition, it is submitted by the respondent in the written statement that petitioners, who are Assistant Foremen of the Corporation, cannot seek parity with B-grade Assistant and Cahiers, as their qualifications and experiences are of different nature. Elaborating, the respondents have given the qualifications and experiences of the Assistant Foremen - petitioners, which is of technical nature as under: -

“Diploma in Mechanical/ Electrical/ Agricultural Engineering from recognized institution/ university or should be matric with I.T.I. certificate in any of the above trade with at least 2 years’ experience at the seed processing plant”

Qualification of the Cashier:

“B.Com. or B.A. with one year Exp. in handing Cash in a reputed company/ Bank.”

3.2 It was also pleaded that equivalent post with same qualification as that of the petitioners is that of Auto Mechanic in department of agriculture as ₹1350-2400; whereas the Assistant Foreman in the Corporation are in the pay scale of ₹1500-2640. Though the management many times had taken up the matter for revision of the pay scale of petitioners from ₹1500-2640 to ₹1800-3200, but with the restrictions imposed by the Government in implementation of the 4th pay commission report, this could not be considered. With these submissions, prayer is made for dismissal of the petition.

4. This Court has considered submissions of both the sides and has appraised the record carefully.

5. The issue involved in the matter is as to whether High Court can issue writ by directing the respondent to grant parity of pay to the petitioners

working as Assistant Foremen with the post of B-grade Assistant and Cashier, simply because at one point of time till the 3rd pay commission, the pay scales of these two posts were the same.

6. In ***Union of India and others Vs. Rajib Khan and others, Civil Appeal No.172 of 2023 [@ Special Leave Petition (Civil) No.8083 of 2022], decided on 16.01.2023***, the question before Hon'ble Supreme Court was that whether in a case where educational qualifications for the post of Nursing Assistant and Staff Nurse are different, whether Nursing Assistant can be entitled to nursing allowance at par with the Staff Nurses. It was held by the Hon'ble Supreme Court as under:

“4.1 The High Court has taken the view that the educational qualifications cannot be a ground for denial of Nursing Allowance at par with the Staff Nurse who can also be said to be an integral part of the nursing service in general. The view taken by the High Court is just contrary to the decisions of this Court in the case of **Punjab State Cooperative Milk Producers Federation Limited (supra)**, **Pramod Kumar Sahoo (supra)** and **T.V.L.N. Mallikarjuna Rao (supra)**.

4.2 In the case of **T.V.L.N. Mallikarjuna Rao (supra)**, it is observed by this Court that the classification of posts and determination of pay structure comes within the exclusive domain of the Executive and the Tribunal cannot sit in appeal over the wisdom of the Executive in prescribing certain pay structure and grade in a particular service. In the case before this Court, this Court upheld the different pay scales/pay structure based on different educational qualifications. It is observed and held that considering the educational qualifications prescribed for appointment to the post of Data Entry Operators, Grade B and the order assigning duties, the classification of Data Entry Operators in different grades, does not violate any right of equality guaranteed by Articles 14 and 16 of the Constitution nor does it violate the constitutional protection against hostile or arbitrary discrimination.

4.3 In the case of **Punjab State Cooperative Milk Producers Federation Limited (supra)**, it is observed and held by this Court that different educational qualification and experience prescribed for appointment can be a ground to have different pay scales/pay structures.

4.4 In the case of **Pramod Kumar Sahoo (supra)**, it is observed and held that nature of work may be more or less the same but the scale of pay may vary based on academic qualification or experience which justifies classification. It is further held and observed that inequality of men in different groups excludes applicability of the principle of 'equal pay for equal work' to them. In the case before this Court, this Court upheld the classification based upon the higher educational qualification for grant of higher pay scale to a trained person or a person possessing higher qualification."

7. Reference may also be made to **"Union of India and others v. Hiranmoy Sen and others", (2008) 1 Supreme Court Cases 630**, wherein it was held by Hon'ble Supreme Court as under:-

"5. Learned counsel for the respondents submitted that the auditors and assistants have been historically treated on a par in the matter of pay scales. Although this fact has been denied by the appellant, we are of the opinion that even if it is correct, that will not be of any help to the respondents. To give an illustration, if post A and post B have been carrying the same pay scales, merely because the pay scale of post A has been increased that by itself cannot result in increase in the pay scale of post B to the same level. It is entirely on the Government and the authorities to fix the pay scales and to decide whether the pay scale of post B should be increased or not. The judiciary must exercise self-restraint and not encroach into the executive or legislative domain."

8. In yet another case titled as **"State of Madhya Pradesh Through Principal Secretary & Ors. v. Seema Sharma", 2022(3) SCT 445**, it has been held by Hon'ble Supreme Court in as under: -

"23. The fixation of scales of pay is a matter of policy, with which the Courts can only interfere in exceptional cases where there is discrimination between two sets of employees appointed by the same authority, in the same manner, where the eligibility criteria is the same and the duties are identical in every aspect."

9. In this case, the educational qualifications and experience criteria for selection of the two posts, as pointed out by the respondents, are quite different. Duties and responsibilities of the two posts i.e. Assistant Foreman,

and B-grade Assistant/Cashier are quite different. As such, petitioners cannot claim parity with the pay scale of the post of B-grade Assistant/Cashier simply because at some point of time, the pay scale of two posts were the same. Reliance can be further placed upon **CWP-741-2017** titled **Surinder Kumar Vs. Punjab Water Resources Management and Development Corporation and others**, decided by this court on 20.01.2025.

10. Consequent to the aforesaid discussion, the present petition is hereby dismissed.

28.02.2025

Vivek

(DEEPAK GUPTA)

JUDGE

Whether speaking/reasoned?	Yes
Whether reportable?	No