

CWP-7369 of 2023

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

CWP-7369 of 2023

Reserved on: 10.12.2024

Pronounced on: 08.01.2025

Gurpreet Singh and others

.....Petitioners.

Versus

State of Punjab and others

.....Respondents

CWP-6859 of 2024

Parminder Singh and others

.....Petitioners.

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: -Mr. Karmanbir Singh Kharbanda, Advocate,
for the petitioners in CWP-7369 of 2023.

Mr. Nikhil Anand, Advocate,
for the petitioners in CWP-6859 of 2024.

Ms. Saguna Arora, AAG, Punjab.

NAMIT KUMAR, J.

1. This common order shall dispose of afore-mentioned two writ petitions as common questions of law and facts are involved therein. For the sake of brevity, facts are being taken from CWP-7369 of 2023 (Gurpreet Singh and others v. State of Punjab and others).



2. Petitioners have approached this Court by way of present petition under Article 226 of the Constitution of India seeking a writ of *certiorari*, quashing the action of the respondent-department whereby petitioners have been granted pay scale of Rs.10300-34800+4200 (GP) instead of pay scale of Rs.10300-34800+4400 (GP). Further prayer has been made for directing the respondents to grant the petitioners pay scale of Rs.10300-34800+4400 (GP) instead of Rs.10300-34800+4200 (GP) from the date of their appointment and release all the consequential benefits, along with interest @ 18%. Further direction has been sought to the respondents to place the petitioners in higher level i.e. Level 11 in terms of the Punjab Civil Services Revised Pay Rules and Punjab Cooperative Audit (Group-B) Service (Second Amendment) Rules, 2021 (Annexure P-21) instead of placing them in lower level i.e. Level 10.

3. Brief facts of the case, as have been pleaded in the petition, are that the petitioners are working as Inspector Audits in the respondents-department. They were appointed through direct recruitment after the selection made by the Punjab Public Service Commission and they joined the services in the year 2018. Earlier, there was a post with nomenclature of 'Junior Auditors' in the respondent-department and the Juniors Auditors were being promoted to the post of Inspectors Audit. On the recommendations of the Second Pay Commission, the Government of Punjab merged the post of 'Junior Auditor' with the post of 'Inspector Audit' with effect from 01.01.1978 vide order dated 03.06.1980, as the revised grade of both cadres was



the same. Accordingly, there was no cadre of Junior Auditor in the Cooperative Department w.e.f. 01.01.1978. As Inspector Audit (earlier Junior Auditor) were given the pay scale of Rs 1500-2600 w.e.f. 01.01.1986, whereas the Assistants/Accountants working in various departments were given the higher pay scale of Rs 1800-3200, the Junior Auditors of various departments approached this Court by filing CWP No. 14667 of 1991 and other connected petitions for grant of same pay scale as being paid to Assistants/Accountants of other departments on the ground that the post Junior Auditors was considered equivalent to Assistant/Accountant right from year 1969. It is further pleaded that Junior Auditors (Inspector Audits) of the respondent Co-operative department also filed a writ petition bearing CWP No. 2216 of 1992, which was also tagged with the afore-said writ petition and all the connected matters were decided by this Court vide judgment dated 06.12.1993 (Annexure P-2), whereby all the writ petitions were disposed of in terms of earlier judgment of Division Bench in the case of Hardaljit Singh v. State of Punjab, CWP No. 7807 of 1991, decided on 31.01.1991 and Junior Auditors were granted the pay scale of Assistants/Accountants. Against the said judgment, State filed an LPA No. 418 of 1994 and the said appeal was dismissed by a Division Bench vide order dated 25.07.1994 (Annexure P-3), by observing that the issue of merger of any post is a question of fact which will be determined by the department. Against the said judgment, SLP was filed by the State Government, which was also dismissed by the Hon'ble Supreme Court vide order dated 21.11.1994 (Annexure P-4).



The respondent department, under the garb of observation made by the Division Bench, re-examined the entire matter and vide order dated 16.03.1995 (Annexure P-5) the claim of the Junior Auditors for grant of equivalent pay scale to that of Assistant/Accountants was declined on the ground that the post of Junior Auditor of respondent department is different from the post of Junior Auditors of other departments and further the post of Junior Auditors was never equal to post of Assistants/Accountants of other departments. The said order was challenged by Inspector Audits by filing CWP No. 14174 of 1995, titled as Harbhajan Singh Bajwa and others v. State of Punjab and others and the abovementioned order dated 16.03.1995 was set aside by this Court vide judgment dated 26.02.2003 (Annexure P-6). The said judgment was implemented by the respondent department and Inspectors Audit were granted the pay scale of Rs 1800- 3200 w.e.f. 01.01.1986 and pay scale of Rs 5800-9200 w.e.f. 01.01.1996 vide order dated 07.07.2005 (Annexure P-7). The benefits of revised pay scales were granted subject to outcome of LPA No. 376 of 2003 filed by the State Government against the judgment dated 26.02.2003. The said LPA filed by the State was also dismissed by this Court vide judgment dated 17.10.2008 (Annexure P-8). It is further pleaded that while deciding the LPA filed by State, the Division Bench was also seized of other connected writ petitions, which were filed by the Punjab State Co-operative Inspectors Associations and others, which was filed by Inspectors of General Wing of Co-operative Department and they were claiming parity with Inspectors of Audit Wing of Co-operative



Department and the said parity was also allowed by this Court vide the same judgment. State also filed an appeal against the judgment dated 17.10.2008 before the Hon'ble Supreme Court, but the same was also dismissed by the Hon'ble Supreme Court vide order dated 26.04.2010 (Annexure P-9). In compliance of the decision of the Division Bench, the revised pay scale of Rs 1800-3200 was granted to the petitioners therein vide order dated 08.06.2010 (Annexure P-10). As the benefit of revised pay scale was only granted to the petitioners therein, other similarly placed Inspectors (Audit) who were not given the benefit of afore-said decision, approached this Court by filing CWP No. 18401 of 2006, praying for grant of pay scale of Rs 5800-9200 as granted to other Inspectors Audit vide order dated 07.07.2005. The said writ petition was allowed vide order dated 20.07.2010 (Annexure P-11) and the respondents were directed to grant pay scale of Rs 1800-3200 w.e.f. 01.01.1986 and all the consequential revised pay scale w.e.f. 01.01.1996 and 01.01.2006. In compliance of the said order, revised pay scales from due dates were granted to the petitioners therein. Thereafter vide notification dated 15.12.2011, the pay scale of Junior Auditors of other departments was revised from 10300-34800 +3800 (GP) to 10300-34800+4400 (GP) w.e.f. 01.12.2011. However, the post of Inspector Audit, which was having the same pay scale of Rs 10300-34800 + 3800 (GP) w.e.f. 01.01.2006, was granted the lesser pay scale of Rs 10300-34800 + 4200 (GP) w.e.f. 01.12.2011. The said action of the respondent department was challenged by the Inspector Audits, who were working at that time in the department by filing CWP No.



15063 of 2014. During the pendency of the said writ petition, an advertisement was issued by Punjab Public Service Commission on 29.11.2016, whereby 545 posts of Inspectors Audit in pay scale of Rs 10300-34800 + 4200 (GP) were advertised. In the meantime, CWP No. 15063 of 2014 filed by the Inspector Audit was allowed by this Court vide judgment dated 11.05.2017 (Annexure P-16) and the respondents were directed to refix the pay scale of the petitioners therein in pay band of Rs 10300-34800 + 4400 (GP) w.e.f. 01.12.2015 as has been granted to Junior Auditors. As in the final judgment dated 11.05.2017, the benefits were granted w.e.f. 01.12.2015 instead of 01.12.2011, CM No. 7852 of 2017 was filed for correction of the date and the same was allowed by this Court vide order dated 03.07.2017 (Annexure P-17) and the date of 01.12.2015 was changed to 01.12.2011. It is further pleaded that the said judgment has remained un-assailed till today and the same has been implemented by the department also and the petitioners therein have been granted the benefit of the said judgment. In spite of afore-said judicial pronouncement at the time of appointment of the petitioners, the respondent-department, while issuing the appointment letters to the petitioners, granted the pay scale of Rs 10300-34800 + 4200 (GP) instead of Rs 10300-34800 + 4400 (GP). The petitioners have moved various representations to the department for grant of grade pay of Rs 4400, but till date no action has been taken by the department in this regard. Hence, the present writ petition.



4. Pursuant to notice of motion, respondents have filed their written statement, wherein it has been stated that petitioners were appointed in pursuance to advertisement dated 29.11.2016 issued for recruitment of 545 Inspectors Audit in the pay scale of Rs.10300-34800+4200 grade pay and vide judgment dated 11.05.2017 grade pay of Rs.4400/- was granted to the petitioners in CWP No.15063 of 2014 only, therefore, petitioners are not entitled to grade pay of Rs.4400/-.

5. During the course of arguments, learned counsel for the petitioners has given up the relief claimed in clause (iv), whereby writ of mandamus has been sought for placing the petitioners in higher level i.e. Level 11 with liberty to approach the department in this regard.

Liberty as prayed for is granted.

6. Learned counsel for the petitioners contended that nature of duties, qualifications and job responsibilities of Inspectors Audit of the respondent-department are the same as of Junior Auditors of other departments in the State of Punjab and both the posts were granted equal pay scale from time to time and keeping in view the same, Inspectors Audit working in the respondent-department have been granted the similar pay scale as granted to the Junior Auditors by this Court vide judgment dated 11.05.2017 (Annexure P-16) and the case of the petitioners is squarely covered by the said judgment.

7. On the other hand, learned State counsel has opposed the claim of the petitioners by submitting that petitioners are not entitled to the pay scale of Rs.10300-34800+4400 grade pay as the said pay scale was granted to the petitioners in CWP No.15063 of 2014 only and at



that point of time even the petitioners were not in service. She further contended that in the advertisement issued for appointment of the petitioners, the pay scale was clearly mentioned as “10300-34800+4200 grade pay”. She has further submitted that the petitioners were appointed in the year 2018 and have filed the present petitions in the years 2023/2024 and since there is a delay in approaching this Court, therefore, the petitions are liable to be dismissed on that count. Therefore, petitioners cannot claim parity and the present writ petitions are liable to be dismissed.

8. I have heard learned counsel for the parties and perused the record.

9. The issue involved in the present case is not *res integra* as Inspectors Audit working in the respondent-department approached this Court, claiming pay scale of Rs.10300-34800+4400 (GP) in parity with Junior Auditors of other departments in the State of Punjab and the said claim was accepted by this Court vide judgment dated 11.05.2017 in CWP No.15063 of 2014 and the same reads as under: -

“The matter in question is as to whether the Inspectors (Audit) working in the Punjab Cooperative Department can be granted equal pay as is being drawn by the Junior Auditors working in other departments of State of Punjab or not?”

The answer to the aforesaid question is no more res integra, as this Court as far back as in its order dated 26.02.2003 passed in CWP No.14174 of 1995 had directed the respondents to grant parity of pay scales to the Inspectors (Audit) with that of Junior Auditors of other departments working in State of Punjab. Admittedly, this



order has been upheld, as is evident from orders dated 17.10.2008 and 08.06.2010 passed in LPA No.376 of 2003 and SLP No.4922 of 2010 respectively. Thus, it is clear that the Inspectors working in the Audit wing of the Cooperative Department have to be treated on equal footing with those of the Junior Auditors working in the other departments and, therefore, the action on part of the respondent-State to again grant a lesser pay scale to the petitioners as compared to Junior Auditors of other departments, is bad in the eyes of law and cannot be sustained.

In view of the above, the present writ petition is allowed and it is ordered that the pay of the petitioners-Inspectors shall be refixed in the Pay Band of 10300-34800 with grade pay of Rs.4400/- with effect from 01.12.2015 in the similar fashion as has been granted to the Junior Auditors. The actual monetary benefits shall be calculated and released to the petitioners within a period of six months from the date of passing of the order.”

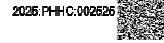
Thereafter, the order dated 11.05.2017 was modified vide order dated 03.07.2017, and the same reads as under: -

“CM-7852 of 2017

Present CM is for correction of the inadvertent mistake having occurred in the operative portion of the judgment dated 11.05.2017 whereby the granted pay scale has been mistakenly mentioned w.e.f. 01.12.2015 instead of the claimed and allowed w.e.f. 01.12.2011.

Upon notice of the application learned State Counsel concedes that the inadvertent mistake requires to be corrected.

In view of the above, the CM is allowed and it is ordered that in the operative portion of the judgment dated



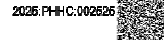
11.05.2017, the date of grant of relief shall be read as w.e.f. 01.12.2011 instead of recorded 01.12.2015”

10. The said judgment has become final and has not been assailed by the respondents-State and the same has been implemented. The matter in hand is squarely covered by the aforesaid judgment of this Court dated 11.05.2017 (Annexure P-16).

11. So far as the argument raised by learned State counsel that the present petition is liable to be dismissed on account of delay is concerned, it may be noticed that the petitioners were appointed in the year 2018 and thereafter they submitted representations dated 22.06.2022 (Annexure P-19) and 02.02.2022 (Annexure P-24). Even otherwise, as per law laid down by the Hon’ble Supreme Court in ***M.R. Gupta v. Union of India and others, 1995(4) RSJ 502*** and Full Bench of this Court in ***Saroj Kumari v. State of Punjab, 1998(3) SCT 664*** holding that the claim of fixation of pay according to rules or instructions, is a recurring cause of action for an employee arising every month.

12. Further, there cannot be different pay scales/pay band/grade pay for the same very post in the same department. The persons working on the same post in the same department are getting grade pay of Rs.4400/- whereas the petitioners who are also working on the same posts and are performing the same duties and responsibilities and having the same qualifications have been placed in lesser grade pay of Rs.4200/-. There cannot be discrimination between the same set of employees working in the same department on the same post. This

Court in ***Punjab State Electricity Board, Patiala and another v. Arjan***



Lal Aarora, 2011(1) SCT 635 has held that benefit of assured career scheme cannot be denied on account of method of recruitment. In the said case, the benefit of time-bound promotional scale was denied to the employee on the ground that he was not a directly recruited Accounts Officer and was a promottee officer.

13. The Hon'ble Supreme Court in ***State of U.P and another v. Aishwarya Pandey, 2022(4) SCT 365*** had an occasion to deal with the similar situation where the employee appointed on compassionate grounds was denied the same pay scale as was being granted to the employee appointed on regular basis. It was held in the said judgment that the moment a person is appointed on a particular post, he is entitled to the pay scale of the said very post, even if the appointment is on compassionate grounds. Para 3 of the said judgment reads as under: -

“3. It is the petitioner - State which appointed the respondent on compassionate ground on the post of Officer on Special Duty. Thereafter, it is not open for the State to contend that the respondent could not have been appointed on compassionate ground on the post of Officer on Special Duty as the same was required to be filled by the Public Service Commission. There cannot be two different pay-scales for the employee appointed on compassionate ground and the employee appointed on regular basis. The moment a person is appointed on a particular post, that person is entitled to the pay-scale of the very post, even if the appointment is on compassionate ground. At this stage, it is required to be noted that even in the case of similarly situated employees, the similar benefit was granted.”

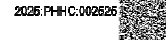


14. In the present case, despite the same relief granted to the counterparts of the petitioners by this Court vide judgment dated 11.05.2017 (Annexure P-16) and having accepted the said judgment, the respondents cannot deny the same benefit to the petitioners. A Division Bench of this Court in ***State of Haryana v. A.K. Sehgal, 1996(3) SCT 402*** has held that once there is a decision of the Court in the cases of other similarly situated persons and the same has become final, the said decision has to be implemented for all. Para 7 of the said judgment reads as under: -

“7. We do not want to interfere with the order passed by the learned Single Judge on yet another ground. It transpires from the pleadings of the parties that the petitioners were granted selection grade and their pay was fixed at Rs. 980/- w.e.f. the date of their options. On April 17, 1983, Engineer-in-Chief, Haryana P.W.D. (B&R) issued an order for the recovery of excess selection grade paid in lump-sum. On April 24, 1983, the petitioner respondents in the letters patent appeal filed C.W.P. No. 2141 of 1983 which was dismissed as having become infructuous and the order to that effect was passed by the Division Bench on July 18, 1983. On August 9, 1983, Engineer-in-Chief, Public Works Department (B&R), Haryana directed that the arrears if any recovered from the petitioners should be paid back to them. However, after two months, a show cause notice was issued to the petitioners reducing the pay to which an appropriate reply was filed on November 8, 1983. This matter remained pending with the Department for over 7 years. No action was taken on the above-mentioned show cause notices. On the contrary, the pay scale of the petitioners was further revised in 1985 to Rs. 800-1400. There was further hike in



*the pay scale in 1988 w.e.f. January 1, 1986 and the revised pay scale was Rs. 1640-2900. Even this pay scale was also given to the petitioners. Meanwhile, Civil Writ Petition No. 2754 of 1983 alongwith connected petition filed by Junior Engineers of Irrigation Branch was allowed and the relief of pay fixation as was originally given to the petitioners, was allowed to the said Junior Engineers of the Irrigation Branch by this Court on September 8, 1989. This judgment of the learned Single Judge was challenged by the State in the letters patent appeal which was dismissed on December 15, 1989. It requires to be mentioned here that alongwith C.W.P. No. 2754 of 1983 filed by the Junior Engineers of the Public Works Department (B&R), Haryana another Writ Petition No. 16339 of 1989 was also filed for the same relief and both the petitions came up for hearing on the same day. Whereas, Letters Patent Appeal was filed in one case, in other case, the Chief Engineer issued an order for implementing the judgment and obviously, no appeal was filed. However, against the judgment of the learned Single Judge, Division Bench dismissed the Letters Patent Appeal and Special Leave Petition No. 8249 of 1989 was also filed which was also dismissed. The appellants were, however, permitted to file review application. The review application was also dismissed on November 30, 1990. From the facts, as have been mentioned above, it is thus, clear that with regard to similarly situated persons, the matter has assumed finality. **No occasion, thus, arises herein to treat the petitioners differently as otherwise, it would result into anomalous situation i.e. within the same department and on the same post, the employees would have different pay scales.** We find no merit in this Letters Patent Appeal and dismiss the same, leaving however, the parties to bear their own costs.”*



To the same effect is the judgment of a Division Bench of this Court in ***Satbir Singh v. State of Haryana, 2002(2) SCT 354*** and ***Rattan Singh v. State of Haryana and others, 1995(1) SCT 711***.

15. In view of the foregoing discussion and abovesaid authoritative enunciation of law by the Hon'ble Supreme Court and this Court, the present writ petition is allowed. Respondents are directed to re-fix the pay of the petitioners in the pay band of Rs.10300-34800+4400 grade pay with effect from the date of their joining as Inspectors Audit in terms of their letters of appointment. The petitioners are entitled for arrears for 38 months prior to the date of filing of the petition in view of the law laid down by the Hon'ble Supreme Court in ***State of Madhya Pradesh and others v. Yogendra Shrivastava, 2010(1) S.C.T. 434***. The necessary benefits shall be calculated and released to the petitioners within a period of four months, from the date of receipt of certified copy of this order.

08.01.2025
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No