



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

CWP-18239-2014

Date of Decision: 11.08.2025

Malti Sharma and Others

...Petitioners

Versus

Municipal Corporation Chandigarh and Others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Vijay Pal, Advocate and
Mr. Akash Lather, Advocate
for the petitioners.

Mr. Sanjiv Ghai, Advocate
for respondents No.1 and 2.

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking direction to respondents to grant Pay Band and Pay Grade of Rs.10300-34800/- plus Grade Pay of Rs.3200/- which is equivalent to the post of Clerk w.e.f. 2011 with interest.

2. On 23.12.2015, the following order was passed:

“It is submitted in reply filed on behalf of Municipal Corporation, Chandigarh that the controversy in hand was taken up with the Director, Local Bodies, Punjab regarding merger of post of Data Entry Operator with Clerks. Chandigarh Administration was also requested to grant/consider revision of grade pay of `3,200/- of Data Entry Operators at par with Clerks, vide Annexure R1. Chandigarh Administration has not accorded approval till date nor any decision has been taken by the Chandigarh

Administration on this aspect.

In view of stand taken by the Municipal Corporation, Chandigarh, respondent No.3 is directed to look into the matter and take a conscious decision thereon before the next date of hearing.

List on 25.02.2016.

Copy of the decision alongwith reply, if necessary, be placed on record before the adjourned date.”

3. The aforesaid order was followed by order dated 25.02.2016 whereby petition was disposed of as infructuous. On the application of petitioners, the order dated 25.02.2016 was recalled vide order dated 19.01.2018 and main petition was restored to its original number. The order dated 19.01.2018 reads as:

“The applicants, who were serving the respondent Municipal Corporation, Chandigarh (for short the 'Corporation') as Data Entry Operators, had filed the main writ petition inter alia seeking pay parity with the Clerks w.e.f. the year 2011. Through notification dated 18.01.2016 issued by the Chandigarh Administration, pay scales of Data Entry Operators were brought at par with those of Clerks w.e.f. 01.12.2011 and on the happening of such event, the main writ petition was disposed of on 25.02.2016 by passing the following order: -

‘Short reply on behalf of respondent No.3, filed in Court today, is taken on record. Copy of the same has been handed over to the counsel opposite.

The petitioners, who are serving the respondent Municipal Corporation, Chandigarh (hereinafter referred to as the 'Corporation') as Data Entry Operator have filed the present petition seeking pay parity with the Clerks working in the Corporation.

As per the written statement filed on behalf of the respondent-Corporation, recommendation to grant to the petitioners, the pay scales at par with

the Clerks was sent to the U.T. Administration which through notification dated 18.01.2016 has been approved. The formal approval/adoption to the notification dated 18.01.2016 has also been granted thereafter by the respondent-Corporation through order dated 18/23.02.2016.

Since the relief as claimed in the present petition has been granted by the respondents, the present petition renders infructuous.

Ordered accordingly.'

Learned counsel for the applicants submits that in spite of the issuance of the above referred notification dated 18.01.2016 bringing at par the pay scales of the applicants with those of Clerks w.e.f. 01.12.2011, no arrears are being paid to the applicants from 01.12.2011 to 18.01.2016.

Learned counsel for the respondent-Corporation submits that the arrears are not being paid to the applicants in view of the clarification received by the respondent-Corporation from the Chandigarh Administration through its letter dated 13.05.2016.

In view of the above, the dispute as raised by the applicants in the main writ petition still subsists and therefore order dated 25.02.2016 through which the writ petition had been disposed of as having been rendered infructuous, is recalled. Resultantly, the main writ petition is restored to its original number and directed to be put up as per roster after informing learned counsel for the parties."

4. Learned counsel for the parties are *ad idem* that petitioners till date are contractual employees and they are working as Data Entry Operators. They have been extended pay scale of Clerks from 2011, however, arrears are not paid for the period from 2011 to 2016.

5. Mr. Vijay Pal, Advocate submits that petitioners were

extended pay scale of Clerks in terms of order dated 18.01.2016 passed in the case of Data Entry Operators of Government Medical College & Hospital, Sector 32, Chandigarh (for short 'GMCH'). The Data Entry Operator of GMCH were also not granted arrears as revision was made prospective. The employees preferred ***OA No.1245 of 2017*** before Central Administrative Tribunal, Chandigarh (for short 'CAT') which was allowed vide order dated 16.01.2019. The employees of GMCH were extended arrears for the period from 2011 to 2016. The respondent vide memo dated 22.09.2022 has withdrawn its letter dated 13.05.2016 whereby employees of GMCH were extended pay parity from prospective effect. The case of petitioners is *pari materia* with employees of GMCH, thus, they deserve arrears.

6. *Per contra*, Mr. Sanjiv Ghai, Advocate submits that Data Entry Operators of GMCH were contractual, however, working against sanctioned post. The petitioners are not regular employees and it is not coming on record that whether they are working against sanctioned posts or not. Their claim for regularization has already been rejected by this Court vide order dated 07.06.2021 passed in ***CWP No.10285 of 2021*** titled as '***Shinu Gupta and Others Versus Union Territory and Another***'.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. From the perusal of record, it is evident that petitioners are working with respondent-Municipal Corporation, Chandigarh on contract basis. They are working for almost two decades. Prior to 2011, the Data Entry Operators of U.T. Administration were getting salary at par with

Clerks. In 2011, pay of Clerks was revised, however, there was no revision in the pay of Data Entry Operator which resulted in anomaly. Conceding representation of Data Entry Operators of GMCH, the respondent vide notification dated 18.01.2016 decided to extend pay scale of Clerks to Data Entry Operators of GMCH. The order dated 18.01.2016 reads as:

“No.7000/2/31/2013-F&PO(7) 1563 Chandigarh, dated the 18.01.2016

In view of the decision taken by the Anomaly Committee in its meeting held on 17.12.2015. it has been decided to bring the parity in pay scale of Data Entry Operators/Clerk-cum-Data Entry Operators working against the sanctioned posts in the Chandigarh Administration with the post of Clerks carrying the pay scale of Rs. 10300-34800+3200 Grade pay with same Qualification as is done in case of Data Entry Operator of GMCH-32, Chandigarh w.e.f. 01.12.2011.

Chandigarh dated the 11.01.2016

*Vijay Dev, IAS
Advisor to the Administrator,
Chandigarh Administration”*

9. The petitioners also made representation to respondent but to no avail. They approached this Court and during the pendency of petition, the respondent vide order dated 18.02.2016 decided to adopt notification dated 18.01.2016 issued with respect to Data Entry Operators of GMCH. The notification dated 18.02.2016 reads as:

“MUNICIPAL CORPORATION, CHANDGIARH
(Establishment Branch)
OFFICE ORDER

In exercise of the powers conferred upon the undersigned vide resolution passed by the Municipal Corporation, Chandigarh in its 10th meeting held on 29.7.1997, the following letter (copy enclosed) of

Chandigarh Administration regarding subject matter as mentioned below in favour of employees of MCC and those working on deputation with the MCC is hereby adopted on the same terms and conditions as mentioned therein:-

<i>S. No.</i>	<i>Letter No.</i>	<i>Subject</i>	<i>Adopted in favour of</i>
<i>1.</i>	<i>7000/2/31/2013-F&PO(7)/563-67 dated 18.1.2016</i>	<i>Revision of pay scale to the post of Data Entry Operators/Clerk-cum-Data Entry Operators equal to the post of Clerks carrying the pay scale of Rs.10300-34800+3200 GP.</i>	<i>In favour of DEO's of MCC on the same terms and conditions mentioned in the Chd. Admn. Notification dated 18.1.2016</i>

*Baldeo Purushartha, IAS
Commissioner,
Municipal Corporation,
Chandigarh”*

Dated: 18.02.2016

10. The respondent with respect to employees of GMCH vide office order dated 13.05.2016 decided to extend benefit of pay parity from prospective effect. The said notification came to be challenged before CAT which vide order dated 16.01.2019 set aside said order and directed the respondent to grant benefit actually from 2011. Pursuant to orders of CAT, the respondent vide office order dated 22.09.2022 withdrew its office order dated 13.05.2016. Office order dated 22.09.2022 reads as:

“To

*All the Heads of the Departments/offices,
Chandigarh Administration.*

Subject - Regarding payment of arrear on account of Pay Parity of Data Entry Operators with the post of Clerks w.e.f. 1.12.2011.

*I am directed to refer to this Administration's
letter No.7000/2/31/2013-F&PO(7)/4508 dated*

13.05.2016 on the subject noted above whereby it was clarified that no arrears shall be paid on account of grant of benefit of Data Entry Operators by equating them at par with Clerks in the pay scale of Rs. 10300-34800+3200 Grade Pay w.e.f. 01.12.2011 and the pay on this account shall be fixed from the date of issuance of notification with prospective effect.

2. In pursuance of the orders of Hon'ble Central Administrative Tribunal (CAT), Chandigarh dated 16.01.2019 passed in OA No.60/1245/2017 titled as "Neeraj Sharma & Others Vs. Chandigarh Administration & Others" and as per advice of the Law Department, Chandigarh Administration issued vide U.O. No.LD-2022/8414/26183 dated 24.08.2022, the above referred letter No.7000/2/31/2013-F&PO(7)/4508 dated 13.05.2016 is hereby withdrawn.

*Finance & Planning Officer,
For Finance Secretary,
Chandigarh Administration."*

11. From the perusal of aforesaid order, it is evident that respondent has granted pay parity to Data Entry Operators of GMCH from 2011. The benefit has been granted retrospectively. The respondent during the course of hearing has attempted to distinguish case of petitioners from the employees of GMCH on the sole ground that employees of GMCH were working against sanctioned posts. There is nothing on record to this effect. Neither the petitioners nor respondent has placed on record that petitioners are working either against sanctioned posts or otherwise. It is true that they are continuously working for last almost two decades. The respondent has adopted notification issued in favour of GMCH employees *in toto*. There is no reservation in the notification vide which notification of U.T. Administration was adopted.

The respondent, at this stage, is trying to distinguish case of petitioners from employees of GMCH. Once the respondent has principally adopted notification of U.T. Administration *qua* GMCH employees and further extended benefit from 2011, there seems no reason to deny benefit actually from 2011 when it has been extended to employees of GMCH.

12. In the wake of above discussion and findings, this Court is of the considered opinion that petitioners like GMCH employees are entitled to arrears for the period from 2011 to 2016. Ordered accordingly.

13. The respondents are directed to release arrears within six months from today. If the arrears are released within six months from today, there would be no liability of interest, failing which the respondent shall be liable to pay interest @ 7.5% per annum from the expiry of said period.

(JAGMOHAN BANSAL)
JUDGE

11.08.2025
Prince Chawla

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No