

213 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-28245-2018
DECIDED ON: 26.11.2025

SHAMSHER SINGH & ORS.

....PETITIONER

VERSUS

BHAKRA BEAS MANAGEMENT BOARD AND ORS.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. L.S. Virk, Advocate and
Ms. Gurleen Kaur, Advocate
for the petitioner.

Mr. Sachin Mittal, Advocate and
Mr. Arnav Mittal, Advocate
for the respondent/BBMB.

SANDEEP MOUDGIL, J (ORAL)

1. Prayer:

The present writ petition under Articles 226/227 of the Constitution of India has been preferred seeking issuance of a writ of mandamus directing the respondent-Board to grant Revised Pay Scale / Technical Pay Scale of Rs.140-300 and its corresponding revised scale to the petitioners in terms of the recommendation of the Pay Commission of 1968 and in view of judgments dated 30.05.2008 passed in CWP No.10759 of 1990 and 15.02.2018 passed in LPA No.44 of 2009.

2. Brief Facts:

The petitioners are employees of the Bhakra Beas Management Board working on technical posts such as Electrician, Wireman, Fireman, Chargeman, Mechanic Fitter and Operator. They are matriculates with two years ITI technical training and thus fall under Category-IV as per the Pay Commission Recommendation of 1968, which prescribes the technical pay scale of Rs.140-300. The said scale was granted to similarly situated employees by this Court in CWP No.10759 of 1990 decided on 30.05.2008 (Annexure P-2), which was upheld in LPA No.44 of 2009 decided on 15.02.2018 (Annexure P-3), and subsequently implemented by the State Government (Annexure P-4).

The Pay Commission categorization accepted by the Punjab Government clearly provides:

“Category-IV: Matriculation with two years ITI technical training – Rs.140-300.”

The petitioners made repeated representations seeking the same benefit, including on 02.11.2015, 14.12.2015 and 14.08.2017, followed by a legal notice dated 22.11.2017 (Annexure P-7). However, their claim was rejected by the respondent-Board *vide* letter dated 18.02.2016 only on the ground that BBMB had adopted the Punjab State Electricity Board pay structure.

Aggrieved thereby, the present writ petition has been filed seeking grant of the technical pay scale and its revised equivalent.

3. Contentions:
On behalf of the petitioner:

Learned counsel for the petitioners contends that the petitioners are duly qualified Category-IV technical employees, being matriculates with two years ITI training, and are thus squarely covered under the 1968 Pay Commission

Recommendation providing the technical pay scale of Rs.140-300. It is argued that the said recommendation has already been accepted and has further been judicially affirmed by this Court in CWP No.10759 of 1990 decided on 30.05.2008 and in LPA No.44 of 2009 decided on 15.02.2018, wherein similarly situated employees were granted the same scale and subsequently implemented by the State of Punjab.

It is submitted that the petitioners are performing identical technical duties and discharge the same nature of work as those employees who have already been extended the benefit, and therefore denial of the technical pay scale to the petitioners is arbitrary and discriminatory

Learned counsel further submits that repeated representations and a legal notice were served upon the respondent-Board, yet the claim was rejected without assigning any cogent or legally sustainable reason, rendering the impugned action non-speaking, unreasonable and unsustainable in law.

On behalf of the respondent/BBMB

Learned counsel for the respondents vehemently opposes the writ petition and submits that the same is misconceived and not maintainable in law as no legal or fundamental right of the petitioners has been infringed. It is contended that the Bhakra Beas Management Board is a statutory body constituted under Section 79 of the Punjab Reorganisation Act, 1966 and is fully empowered to prescribe its own service conditions.

Learned counsel submits that in the year 1992, the respondent-Board consciously adopted the pay pattern of the Punjab State Electricity Board (now PSPCL) w.e.f. 01.01.1986, and all petitioners had expressly consented to fixation of their pay under the said structure, which is still being uniformly followed.

It is further argued that the judgments relied upon by the petitioners pertain to Punjab Government employees and not to BBMB employees, who form a distinct and separate cadre governed by different service regulations.

Lastly, it is submitted that in BBMB, all tradesmen such as Electrician, Wireman, Fitter, Painter, Carpenter, Plumber and Pump Operator are already drawing the same pay scale, and therefore no question of discrimination arises. The rejection of the petitioners' claim vide letter dated 18.02.2016 is defended as legal and justified.

Heard counsel for both parties.

4. Analysis:

Having given consideration to the submissions advanced on behalf of the petitioner and the material placed on record this court is of the view that the foundational facts are not in dispute that the petitioners are matriculates with two years ITI technical training and are working on technical posts such as Electrician, Wireman, Fitter, Fireman and Operator under the respondent-Board. As per the 1968 Pay Commission Recommendation, such employees fall under Category-IV and are entitled to the technical pay scale of Rs.140-300. This factual position has not been controverted by the respondent-Board through any cogent evidence.

The legal entitlement of such Category-IV employees is no longer res integra. This Court in CWP No.10759 of 1990 decided on 30.05.2008 categorically held that employees possessing matriculation with two years ITI qualification are entitled to the pay scale of Rs.140-300, which finding was further affirmed by the Division Bench in LPA No.44 of 2009 decided on 15.02.2018. Once a declaration of law has attained finality, the respondent-Board is bound to give it full effect and cannot refuse parity on technical or administrative grounds.

The constitutional principle of equal pay for equal work stands conclusively settled by the Supreme Court in “**Randhir Singh v. Union of India, (1982) 1 SCC 618**”, wherein it was held that equality in pay for identical work is a constitutional guarantee flowing from Articles 14 and 16. Relevant extract is as follows:

8. It is true that the principle of 'equal pay for equal work' is not expressly declared by our Constitution to be a fundamental right. But it certainly is a Constitutional goal. Article 39(d) of the Constitution proclaims 'equal pay for equal work for both men and women' as a Directive Principle of State Policy. 'Equal pay for equal work for both men and women' means equal pay for equal work for everyone and as between the sexes. Directive principles, as has been pointed out in some of the judgments of this Court have to be read into the fundamental rights as a matter of interpretation. Article 14 of the Constitution enjoins the state not to deny any person equality before the law or the equal protection of the laws and Article 16 declares that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. These equality clauses of the Constitution must mean some thing to everyone. To the vast majority of the people the equality clauses of the Constitution would mean nothing if they are unconcerned with the work they do and the pay they get. To them the equality clauses will have some substance if equal work means equal pay.

The same principle has been reaffirmed in **State of Punjab v. Jagjit Singh, (2017) 1 SCC 148**, where the Supreme Court ruled that where nature of duties and qualifications are similar, denial of equal pay is impermissible irrespective of the nature of employment or employer.

Once a Pay Commission recommendation is accepted and implemented, it becomes enforceable in law as held in “**Purshottam Lal v. Union of India, (1973) 1 SCC 651**”, wherein it was observed that,

“We are unable to appreciate this point. Either the Government has made reference in respect of all Government employees or it has not. But if it has made a reference in respect of all Government employees and it accepts the recommendations it is bound to implement the recommendations in respect of all Government employees. If it does not implement the report regarding some employees only it commits a

breach of Articles 14 and 16 of the Constitution. This is what the Government has done as far as these petitioners are concerned.”

The artificial classification sought to be created by the respondent-Board is hit by Article 14. The issue is otherwise no longer res integra in view of the binding judgments of this Court in CWP No.10759 of 1990 decided on 30.05.2008 and LPA No.44 of 2009 decided on 15.02.2018 granting the very same benefit to similarly situated employees.

The objection of the respondent that BBMB is a distinct statutory body and that the petitioners cannot seek parity with Punjab Government employees is also legally unsustainable. Pay parity among different employees depends upon qualification and nature of duties, and not merely on the identity of the employer. Once qualifications and duties are established to be similar, artificial classification becomes constitutionally invalid.

The contention that the petitioners had consented to the adoption of the PSPCL pay structure in the year 1992 is equally without merit. It is well settled that a constitutional right cannot be waived by consent or acquiescence, particularly when such waiver results in hostile discrimination. The Supreme Court in ***D.S. Nakara v. Union of India, (1983) 1 SCC 305*** authoritatively held that any classification in matters of pay and service benefits must be founded on a rational and non-arbitrary basis. It was observed that:

32. Having succinctly focussed our attention on the conspectus of elements and incidents of pension the main question may now be tackled. But the approach of Court while considering such measure, is of paramount importance. Since the advent of the Constitution the State action must be directed towards attaining the goals set out in Part IV of the Constitution which, when achieved, would permit us to claim that we have set up a welfare State. Article 38(1) enjoins the State to strive to promote welfare of the people by securing and protecting as effective as it may a social order in which justice social, economic and political shall inform all institutions of

the national life. In particular the State shall strive to minimise the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities. Article 39(d) enjoins a duty to see that there is equal pay for equal work for both men and women and this directive should be understood and interpreted in the light of the judgment of this Court in Randhir Singh v. Union of India, (1982) 1 SCC 618 . Revealing the scope and content of this facet of equality, Chinnappa Reddy, J. speaking for the Court observed as under (para 1) :

"Now, thanks to the rising social and political consciousness and the expectations roused as a consequence and the forward looking posture of this Court the underprivileged also are clamouring for their rights and are seeking the intervention of the Court with touching faith and confidence in the Court. The Judges of the Court have a duty to redeem their constitutional oath and do justice no less to the pavement dweller than to the guest of the Five Star Hotel."

Proceeding further, this Court observed that where all relevant considerations are the same, persons holding identical posts may not be treated differently in the matter of their pay merely because they belong to different departments.

The respondent-Board has failed to establish any rational basis to deny the technical scale to the petitioners despite identical qualifications. Further, once a Pay Commission recommendation is accepted and implemented, it becomes enforceable in law as discussed in ***Purshottam Lal (supra)***. The respondent-Board cannot selectively deny the benefit of such accepted recommendation merely on the ground of financial burden or adoption of a different administrative pay pattern.

The rejection of the petitioners' claim *vide* letter dated 18.02.2016 is found to be non-speaking, arbitrary and legally unsustainable, as it does not decide the petitioners' eligibility under Category-IV, nor does it deal with the binding judicial precedents governing the field.

In view of the above discussion, this Court holds that the denial of Technical Pay Scale to the petitioners is illegal and arbitrary. The petitioners are entitled to the same technical pay scale as granted to similarly situated employees pursuant to judicial pronouncements discussed above. However it is also noted that

in CWP No.10759 of 1990 decided on 30.05.2008 and LPA No.44 of 2009 decided on 15.02.2018 upon which reliance has been placed by the petitioners granting the very same benefit to similarly situated employees, the payment of arrears have been restricted to 38 months only. Support may be drawn from the full bench judgment of this court in **“Saroj Kumari vs State of Punjab 1998 (3) SCT 664”** wherein it was observed that:

“9. After hearing learned counsel for the parties on this point we are of the view that in case where a person invokes the jurisdiction of this Court under Article 226 of the Constitution of India for fixation of his pay under relevant rules/instructions or even on the basis of a judgment of a competent Court, the question of delay and laches would not come in as it would be a case of a continuing wrong and every month the person is paid the salary which according to him is not in accordance with the relevant rules and instructions a fresh cause of action would arise every month. Such a case is not a case of one time action like the case of termination or dismissal from service. As observed by the apex Court in M.R. Gupta's case (supra) that the Court while granting relief regarding the payment of arrears may apply law of limitation. Since a civil suit would be maintainable for realising arrears of three years and two months, the writ Court would be justified in restricting the payment of arrears to three years and two months prior to the filing of the writ petition.”

5. Conclusion:

Owing to the discussion made herein above, it is the opinion of this Court that the present civil writ petition is liable to be allowed.

The respondents are hereby directed to grant the petitioner who have qualifications of two years diploma course of ITI with matriculation the benefit of the Revised Pay Scale/Technical Pay Scale of Rs.140-300 and its corresponding revised scale w.e.f. the date they have joined the service in view of judgment dated 30.05.2008 passed in CWP-10759-1990 (Annexure P-2) and judgment dated 15.02.2018 in LPA-44-2009 (Annexure P-3).

The pay scale shall be fixed from the aforementioned date but the arrears would be restricted to a period of 38 months preceeding the date of filing

of the petition which has been filed on 27.10.2018, in accordance with the ratio laid by the full bench of this court in *Saroj Kumari (supra)*.

Ordered accordingly.

Pending applications, if any, stand disposed.

26.11.2025
anuradha

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No