

CM-679-CWP-2024 in/and
CWP-22420-2020 (O&M) and
other connected cases

2025:PHHC:044435



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. 111+287)

(1) CM-679-CWP-2024 in/and
CWP-22420-2020 (O&M)
Date of Decision : 02.04.2025

Major Singh ...Petitioner

Versus

State of Punjab and others ...Respondents

(2) CM-576-CWP-2024 in/and
CWP-22468-2020 (O&M)

Dashrath Singh ...Petitioner

Versus

State of Punjab and others ...Respondents

(3) CM-587-CWP-2024 in/and
CWP-22377-2020 (O&M)

Major Singh ...Petitioner

Versus

State of Punjab and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. P.S. Khurana, Advocate with
Mr. Ajay Kamboj Gurpreet, Advocate and
Ms. Aseeinder Kaur Khurana, Advocate for the petitioner(s)
in all cases.

Mr. Malkiat Singh, Deputy Advocate General, Punjab.



Harsimran Singh Sethi J. (Oral)

CM-679-CWP-2024 in CWP-22420-2020, CM-576-CWP-2024 in CWP-22468-2020 and CM-587-CWP-2024 in CWP-22377-2020

Present applications have been filed for placing on record replications to the written statements filed on behalf of the respondents.

Applications are allowed and replications to the written statements filed on behalf of the respondents are taken on record with all just exceptions.

CWP-22420-2020, CWP-22468-2020 and CWP-22377-2020,

1. By this common order, three writ petitions, the details of which have been given in the heading, are being decided as all these petitions involve the same question of law on similar facts.

2. For the sake of convenience, the facts are being taken from CWP No. 22420 of 2020.

3. In the present petition, the grievance being raised by the petitioner is that the petitioner was entitled for the benefit of revision of the pay scale in accordance to the recommendations of the 2nd Pay Commission as he was also having the technical qualification, which was required to avail the said benefit, which benefit was not extended to the petitioner on the ground that the technical qualification i.e. Diploma should be of two years whereas, the petitioner was having Diploma of one year which is the reason that the benefit of the higher pay scale of ₹140 - ₹300 was not given to the petitioner.



4. Learned counsel for the petitioner submits that the similarly situated employees who were also having one year Diploma, filed writ petition before this Court claiming that at the time i.e. before the year 1977 when they were appointed, the Diploma required was only of one year and, therefore, they should be treated eligible for the grant of the pay scale as recommended by the 2nd Pay Commission. Learned counsel submits that the said relief was granted to the similarly situated employees who were petitioner therein while passing of the order in CWP No. 12073 of 2013 titled as *Anil Kumar Vs. The State of Punjab and others*, decided on 27.11.2013. Learned counsel for the petitioner further submits that the orders were passed by this Court in case of *Anil Kumar (supra)* that the employees who had one year Diploma, which was in existence at the time when the qualifications were obtained qua the appointment of employees and there was no two years Diploma available at the retirement time, such employees be treated eligible for the grant of pay scale of ₹140 - ₹300.

5. The direction given in the said writ petition was implemented qua Anil Kumar vide order dated 10.07.2014 by the respondent-authorities, which led to filing of the present petition by the petitioner claiming that since he is similarly situated as the petitioners in *Anil Kumar (supra)*, therefore, relief qua revision of pay scale should be granted.

6. Learned counsel for the petitioner submits that the petitioner approached this Court by filing CWP No. 30456 of 2019, wherein direction was given to the respondents authorities to decide the claim of the petitioner and in pursuance to the said direction, impugned order dated 21.07.2020



(Annexure P-1) was passed. Learned counsel submits that though, the respondent authorities have conceded that the claim of the petitioner qua revision of pay scale is similar to that which was put forth in *Anil Kumar (supra)* but the same has been declined by the respondent authorities on the ground that Diploma of two years cannot be equated with Diploma of one year. Learned counsel for the petitioner argues that once Diploma of two years was not in existence at the time when the same was obtained by the petitioner in the year 1977 and the same was the case of *Anil Kumar (supra)*, wherein the similarly situated employees (petitioners) had already been granted relief qua the revised pay scale, the petitioner should also be granted the same relief rather than differentiating between the two year and one year diploma by stating that one cannot be equated with another which was not even the claim of the petitioner.

7. Upon notice of motion, the respondents have appeared and filed the reply. A preliminary objection has been taken that the claim of the petitioner is belated as the same has only been raised after the retirement, which is not permissible. Learned counsel for the respondents further submits that even if a similarly situated employee has been granted the same relief as has been claimed by the petitioner but the delay by the petitioner in claiming the relief will be an impediment to grant the petitioner the relief he is claiming. Learned counsel further submits that as per the impugned order, the two year and one year Diploma cannot be equated for the grant of relief as being claimed by the petitioner.



8. I have heard learned counsel for the parties and have gone through the record with their able assistance.

9. The first question which arise for consideration is whether, the claim of the petitioner is similar to *Anil Kumar (supra)* who has been granted relief or not. Even in the impugned order the respondents have conceded the said fact that the claim of the petitioner is similar to one *Anil Kumar (supra)* who has already been granted relief in the year 2014.

10. That being so, the next question which arise for consideration is whether, the claim of the petitioner is liable to be dismissed on the ground of delay as the petitioner has approached the authorities concerned after his retirement. The petitioner has already submitted before this Court that the petitioner is not claiming the actual salary by revising his pay scale but submits that his pay be revised notionally upto the date of retirement and only his retiral benefits be revised as per the pay scale so that he be granted arrears of the pensionary benefits.

11. Learned counsel for the petitioner submits that the petitioner is foregoing his claim for arrears on the basis of the revision which he is entitled for by claiming parity with *Anil Kumar (supra)*.

12. Keeping in view the said fact coupled with the fact that the respondents themselves have stated in the impugned order that the claim of the petitioner is similar to that of *Anil Kumar (supra)* but only declined the same by treating that the qualification of one year Diploma is not equivalent to that of two year Diploma, this Court is of the view that the impugned order declining the benefit to the petitioner is not correct. Once, the Co-



ordinate Bench of this Court has already held that at the time when the qualifications were obtained so as to be appointed only one year Diploma was available as there was no two year Diploma available and such employees who hold one year Diploma, were held to be entitled for the grant of pay scale of ₹140 - ₹300, the petitioner's claim was covered in terms of the said judgment in his favour.

13. Accordingly, the impugned order dated 21.07.2020 (Annexure P-1) is set-aside. The petitioner is also held entitled for the pay scale of ₹140 - ₹300 and as per the judgment passed in CWP No. 10759 of 1990 titled as ***Rajinder Pal Gautam and others Vs. State of Punjab and others***, decided on 30.05.2008. Petitioner also had the technical qualification for the grant of the said pay scale of ₹140 - ₹300.

14. Though, the revised pay scale of ₹140 - ₹300 will be granted to the petitioner from the date, the similarly situated employees were granted the said benefit and the consequential revision of pay scale will also be granted upto the date of retirement but no arrears on account of the grant of said pay scales will be admissible to the petitioner as already undertaken before this Court upto the date of his retirement. The pensionary benefits of the petitioner will be revised on the basis of the notional pay, which will be calculated and the arrears of the pensionary benefits including the revised pension, will be extended to the petitioner with arrears. Let the order be complied with within a period of two months from the date of receipt of copy of this order.

15. Petitions are allowed in above terms.

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- 16. Pending miscellaneous application, if any, also stands disposed of.
- 17. A photocopy of this order be placed on the file of connected cases.

April 02, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No