



CWP-31722-2019 (O&M) and CWP-32681-2019 (O&M) -1-

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

**1) CWP-31722-2019 (O&M)
Date of decision: 28.11.2025**

UNION OF INDIA AND ORS. ...PETITIONERS

VERSUS

JASWANT KAUR AND ORS. ...RESPONDENTS

2) CWP-32681-2019(O&M)

UNION OF INDIA AND ORS. ...PETITIONERS

VERSUS

GURVINDER PAL SINGH AND ORS. ...RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Ashish Rawal, Sr. Panel Counsel for the petitioner(s).

Mr. D.S.Patwalia, Sr. Advocate with
Mr. A.S.Chadha, Advocate for the respondents.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present appeals, the challenge is to the order dated 13.07.2018 (Annexure P-1) passed by the learned Central Administrative Tribunal, Chandigarh Bench, Chandigarh in OA No. 060-00556/2017 titled Jaswant Kaur & Ors. Vs. Union of India & Ors. vide which, order dated 20.10.2016 passed by the petitioners-UOI has been set aside and petitioner has been directed to consider the claim of the respondents No.1 to 8 for fixation of their pay at par with their juniors and order dated 17.07.2019 (Annexure P2), whereby Review Application bearing RA No.060/00016/2019 filed by the petitioners in aforesaid OA has been dismissed by the learned tribunal.

2. Learned counsel for the petitioner(s) submits that the grant of benefit

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in favour of the respondents by the learned Tribunal is incorrect as, the junior of the respondents were granted the higher pay scale, keeping in view the revised higher pay scale as given under the 6th Pay Commission, hence, an anomaly only arose keeping in view the financial upgradation to be granted under 5th Pay Commission and 6th Pay Commission and therefore, the learned Tribunal failed to appreciate that once in the 6th pay commission, upon the grant of the benefit of Assured Career Progression Scheme (ACPS), a higher salary was envisaged, the benefit could not have been granted to the respondents of stepping-up of their pay equivalent to the juniors.

3. Learned Senior counsel appearing on behalf of the respondents submits that much water has flown after the passing of the judgment dated 17.07.2019 impugned in the present writ petition. Learned Senior counsel further submits that even if on the basis of the pay scale provided under the 5th Pay Commission or the 6th Pay Commission, the financial upgradation has been given on account of ACPS, but under any circumstances, once the record of the senior is good, merely keeping in view the date of grant of ACP of the junior arose after the revision of the pay scale by the 6th Pay Commission, the seniors cannot be granted lesser salary than the junior and the step-up of pay has to be granted. 4.

Learned Senior counsel further submits that in the present case, the respondents are at better footing as, the juniors who are not even the part of the cadre of the senior Supervisor, but only became part of the said cadre upon merger of the cadre of junior Supervisor with senior Supervisor, such junior Supervisors are getting a higher pay than the original senior Supervisors which has been noticed by the learned Tribunal. Hence, the grant of benefit to the senior Supervisors of stepping-up of their pay equivalent to their juniors is

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5. Learned Senior counsel further submits that after the judgment was passed in the present case, another employee namely, Sehdev Paswan also approached this Court to grant the same relief as granted to the respondents herein. The said Sehdev Paswan was junior to the respondents in the cadre of the senior Supervisor and was allowed the same benefit keeping in view the order passed by the learned Tribunal in the case of the respondents dated 17.07.2019, which is clear from the order passed by the learned Tribunal dated 02.05.2019 passed in OA No. 060-976/2017. Learned Senior counsel further submits that the said order was challenged by the Union of India before this Court and the writ petition filed in **CWP-29312-2019** by the Union of India in case of Sehdev Paswan was dismissed on 14.08.2024 and the said Sehdev Paswan has already been given the benefit in August, 2024. Learned Senior counsel further submits that once, an order of the learned Tribunal which was passed based upon the order impugned herein, has already been upheld by the Co-ordinate Bench of this Court, the present writ petition filed also needs to be dismissed in view of the dismissal of the writ petition No.29312 of 2019.

6. Learned counsel for the petitioner(s) submits that though, the judgment in Sehdev Paswan was based upon the order impugned in the present petition but in the said case, another factor had arisen whether, Sehdev Paswan is eligible to be granted the said benefit but concedes that the judgment in Sehdev Paswan passed by the learned Tribunal has already attained finality and he has already been granted the benefit.

7. We have heard learned counsel for the parties and have gone through the record with their assistance.

8. It is a settled principle of law that senior cannot get lesser salary than his junior unless and until the said senior has been ignored for the grant of the

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benefit under the ACP Scheme keeping in view his/her record. Merely, keeping in view the date of the grant of ACP which might be under two different pay scales, the senior cannot be made to get a lesser salary than his junior unless and until there are differentiating circumstances which have led to the grant of different salary to the senior and the junior.

9. In the present case, no differentiating fact has been brought to the notice of this Court as to why, the seniors are being paid lesser salary than the juniors. The only argument raised is that juniors were granted the upgradation under the ACPS under the 6th Pay Commission whereas the same was granted to the respondents herein under the 5th Pay Commission which Pay Commission envisaged at the time of the grant of the benefit. Even if, the two different pay scales were there at the time of the grant of the benefit of the ACP qua senior and the junior but, the anomaly which arises by adopting the said method has to be removed by the stepping-up of pay of the senior which has been done by the learned Tribunal in the facts and circumstances of the present case.

10. Further, it may be noticed that the juniors are the ones who are not even the part of the cadre of the senior Supervisors when the benefit of ACP was extended to the respondents herein as, they were working in a lower cadre. It was thereafter when two cadres i.e. cadre of senior Supervisors and junior Supervisors were merged, junior Supervisors who ultimately joined the cadre of senior Supervisors much after the respondents herein, were considered for the grant of benefit of ACP, which granted them a pay scale which was admissible under the 6th Pay Commission and they started getting a higher pay than the respondents herein. This shows that the employees who were in a lower cadre at the time when the ACP was extended to the respondents, are actually getting a

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rightly been directed to be removed by the learned Tribunal in the facts and circumstances of the present case.

11. The judgment is being cited by the petitioner(s) in **Civil Appeal No.2016 of 2020** titled as **Union of India And Others Versus M.V. Mohanan Nair** decided on **05.03.2020** to submit that an ACP is to be granted in the next pay grade instead of grade pay in the next promotional hierarchy. The said judgment is not applicable in the facts and circumstances of the present case where, the claim is only for grant of step-up of pay of senior, who is concededly getting lesser salary than his juniors.

12. Further, on the basis of the judgment impugned in the present petition, one, Sehdev Paswan approached the Court and was granted the benefit of step-up of his pay equivalent to his junior and the learned Tribunal had granted the said benefit by placing reliance upon the judgment impugned in the present petition. The said order passed by the learned Tribunal in the case of Sehdev Paswan was challenged by the Union of India in CWP No.29312 of 2019, which writ petition has been dismissed by the Co-ordinate Bench of this Court vide order dated 14.08.2024 and the benefit of stepping-up of pay has been granted to Sehdev Paswan in August, 2025 which is a conceded fact. One, another junior of the respondents, has been granted the benefit based upon the judgment impugned in the present petition, the argument of the petitioner(s) that the said benefit should not be extended to the respondents cannot be accepted as it will create anomaly again that the junior of the respondents has already been allowed the step-up, whereas the prayer of the petitioner is that even the senior to Sehdev Paswan should not be granted the said benefit, cannot be accepted.

13. The last argument which has been raised by the learned counsel for the petitioner is that once, the scheme is not under challenge, the grant of the benefit

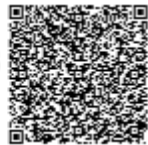
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given to the juniors could not have been accepted by the learned Tribunal. It may be noticed that the claim is for the grant of benefit under the ACP, respondents were granted the benefit qua the scale which were admissible under the 5th Pay Commission whereas the juniors were granted the benefit of ACP under the 6th Pay Commission. The claim is not for the grant of Grade Pay as admissible under the 6th Pay Commission but is only to remove the anomaly which has occurred by the grant of ACP under two different pay scales, keeping in view the revision of the pay scale. The claim in the present petition is for stepping up of the pay equivalent to the junior employee and as per the settled principle of law, if senior is getting a lesser salary than the juniors, the pay of the senior is to be upgraded unless and until such senior suffers any ineligibility, which fact is not present in the present case.

14. As per the judgment of the Hon'ble Supreme Court of India in **Union of India And Others Versus Shri C.R. Madhava Murthy and another in Civil Appeal Nos. 2087-2088 of 2022** decided on **06.04.2022**, if the senior is getting lower salary than the junior, the benefit of step-up of pay has to be granted, the relevant paragraph of the judgment is as under:-

“Therefore, it was a case where a junior was drawing more pay on account of upgradation under the ACP Scheme and there was an anomaly and therefore, the pay of senior was required to be stepped up. Hence, in the facts and circumstances of the case, the High Court has rightly directed the appellants herein to step up the pay of the original writ petitioners keeping in view of pay scale which has been granted to the juniors from the date they have started drawing lesser pay than their juniors. We are in complete agreement with the view taken by the High Court. No interference of this Court is called for.”

15. Learned counsel for the petitioner has not been able to rebut the said



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principle of law.

16. Keeping in view the totality of facts and circumstances mentioned here in above, the grant of relief in favour of the respondents by the learned Tribunal cannot be treated as arbitrary or illegal either on facts or on record or on the settled principle of law.

17. In view of the above, no ground is made out to call any interference in the order dated 17.07.2019 passed by the Tribunal, hence, the present writ, are hereby, dismissed.

18. However, as the respondents have already retired, it will be in the fitness of things that the order dated 17.07.2019, if not already implemented in letters and spirit, be implemented within a period of 08 weeks from the date of receipt of certified copy of this order.

**[HARSIMRAN SINGH SETHI]
JUDGE**

**[VIKAS SURI]
JUDGE**

28.11.2025
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Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No