



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

CWP-28448-2025

Date of decision: 22.09.2025

Sandeep Kumar and others

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Ms. R.S. Sohi, Advocate
for the petitioners.

Ms. Niharika Sharma, AAG, Punjab.

Mr. Amandeep Singh, Advocate
for respondent No.5.

HARPREET SINGH BRAR, J. (ORAL)

1. The present civil writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *mandamus* directing the respondents to grant the statutory pay scale to the petitioners as per the Punjab State Cooperative Supply and Marketing Federation Employees (Common Cadre) Service Rules, 1990 (hereinafter referred to as 'Service Rules of 1990') (Annexure P-4).

CONTENTIONS

2. Learned counsel for the petitioners *inter alia* contends that the service of the petitioners is covered by the Service Rules of 1990 (Annexure P-4). The petitioners were selected and appointed in terms of the advertisement issued in March, 2021 by respondent No.5, however, the pay scale of the petitioners was fixed in terms of 7th Pay Commission which was issued by the



Government of Punjab vide notification dated 17.07.2020 (Annexure P-3). The learned counsel submits that the petitioners are entitled to the statutory pay scale prescribed under the Service Rules of 1990 and the respondents cannot deviate from the service rules only on the basis of executive instructions which cannot in any manner override or dislodge the implication of the service rules. She further submits that the identical issue was settled by this Court in **CWP No.15896 of 2023** titled as *Saurabh Sharma and others Vs. State of Punjab and another* decided on 13.09.2024.

3. Learned counsel for respondent No.5 could not controvert the ratio of law as culled out by this Court in *Saurabh Sharma (supra)* and **CWP No.24313 of 2025** titled as *Kuldeep Singh and others Vs. State of Punjab and others* decided on 22.08.2025.

OBSERVATION & ANALYSIS

4. I have heard the learned counsel for the parties and perused the record of the case with their able assistance. The issue involved in the present case is no longer *res integra*. A Coordinate Bench of this Court in *Saurabh Sharma's case (supra)* has held that any executive instructions would not dilute or dislodge the implications of the applicable statutory rules. Speaking through Justice H.S. Sethi, the following observations were made:

"...11. In the present petitions, the pay scale of the post in question has been described in the 2016 Rules itself, hence, it cannot be said that by the Instructions dated 17.07.2020, respondents were supplementing the Rules. Rather the Instructions dated 17.07.2020 are contrary to the 2016 Rules qua the pay scale of the post on which petitioners are working and hence, said Instructions dated 17.07.2020 cannot be made operational till 2016 Rules are amended.

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14. Hence, once the 2016 Rules governing the service which



have a statutory force, are operational and prescribes a particular pay scale for the post being held by the petitioners and have not been amended so far, the same has to be made applicable by ignoring the Instructions dated 17.07.2020, which are contrary to 2016 Rules, hence the respondents are directed to grant the petitioners the pay scale as envisaged under 2016 Rules i.e. ₹37,400 - ₹67,000/-+₹8600/- Grade Pay...”

5. The decision taken by the Single Bench of this Court in **CWP No.15896 of 2023** was upheld by the Division Bench of this Court in **LPA No.2977 of 2024** titled as **‘State of Punjab and another Vs. Dr. Saurabh Sharma and others’** wherein speaking through Justice Anupinder Singh Grewal, the following was opined:

*“...6. It is manifest that the respondents having been appointed under 2016 Rules were entitled to the pay scales as prescribed thereunder. Merely because in the advertisement/appointment letters, the State had prescribed a lower pay scale, the same cannot come in the way of the respondents, seeking the enforcement of their lawful rights of getting the pay scales as prescribed under the statutory rules. **It is trite that the executive instructions cannot override the statutory rules. In the event of the State intending to provide another or lower pay scales, the proper course to be adopted was the amendment of the rules. There is no dispute that the aforementioned rules have not been amended. Executive instructions would have the force of law only in the absence of statutory rules or to fill the gaps in the statutory rules which is not there in the case at hand.***

8. Reference can be made to the judgments of Supreme Court in the cases of **Union of India Vs. Majji Jangamayya, (1977) 1 SCC 606, Union of India Vs. Ashok Kumar Aggarwal, (2013) 16 SCC 147, Krishna Rai (dead) through LRs and others Vs. Banaras Hindu University through Registrar and others in Civil Appeal Nos.4578-4580 of 2022 decided on 16.06.2022 and Civil Appeal No.152 of 2022 titled The Employees' State Insurance Corporation Vs. UOI and**



others, decided on 20.01.2022, whereby it has been held that in the event of conflict between statement in advertisement and service regulations, latter shall prevail... ” (Emphasis supplied)

6. Indubitably, the instructions dated 17.07.2020 are executive in nature while the Service Rules of 1990 under which the appointment of the petitioners was made, are statutory in nature. Executive or administrative instructions do not have the authority to amend, override or supplement statutory rules, nor can any such instructions be issued in derogation of the statutory framework. This is for the reason that administrative directions, being non-statutory in character, do not carry the force of law. On the contrary, statutory instructions, framed under the authority of an enabling statute, have the binding force of law, provided they are consistent with and not repugnant to the parent Act. Thus, while statutory rules occupy the field with full legal sanctity, mere executive instructions cannot operate to curtail, modify or expand their scope. Reference in this regard can be made to *State of U.P. v. Babu Ram Upadhyaya, AIR 1961 Supreme Court 751; B.N. Nagarajan v. State of Karnataka, AIR 1979 Supreme Court 1676; State of Tamil Nadu v. M/s. Hind Stone, AIR 1981 Supreme Court 711; P.D. Aggarwal v. State of U.P., (1987)3 SCC 622: (AIR 1987 Supreme Court 1676); State of Maharashtra v. Jagannath Achyut Karandikar, AIR 1989 Supreme Court 1133; State of Madhya Pradesh v. G.S. Dall & Flour Mills, AIR 1991 Supreme Court 772; C. Rangaswamaiah v. Karnataka Lokayukta, 1998(3) RCR (Criminal) 547: AIR 1998 Supreme Court 2496.*

7. In view of the discussion above, the present writ petition is allowed. The petitioners shall be granted the statutory pay scales as per the Service Rules of 1990. All consequential benefits be calculated and the admissible dues be released to the petitioners within a period of three months



from the date of receipt of a certified copy of this order.

8. Pending miscellaneous application, if any, also stands disposed of.

(HARPREET SINGH BRAR)
JUDGE

22.09.2025
Neha

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