2025:PHHC:132097

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

116

CWP-28550-2025 (O&M)
Date of decision: 23.09.2025

Lakhvir Singh and others

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rashpinder Singh Sohi, Advocate
for the petitioners.

Mr. Vikas Arora, DAG, Punjab.

Mr. Dipankar Aggarwal, Advocate
for respondent No.4 (through video conferencing)

HARPREET SINGH BRAR J. (Oral)

1. Prayer in this writ petition filed under Articles 226/227 of the Constitution of India, is for issuance of a writ in the nature of mandamus, directing the respondents to grant statutory pay scale to the petitioners as per The Punjab State Electricity Board Ministerial Services Group-III Rules, 1985, The Punjab State Electricity Board Technical Services Grade-III Rules, 1996 and The Revised Pay Scale Rules, 2009, from entry into the service along with arrears and interest @ 12% thereon. Further prayer has been made to direct the respondents to take into account the statutory pay scale as per The Punjab State Electricity Board Ministerial Services Group-III Rules, 1985, The Punjab State Electricity Board Technical Services Grade-III Rules, 1996

and The Revised Pay Scale Rules, 2009. Further a writ of certiorari has been sought, for quashing the Instructions dated 17.07.2020 (Annexure P-3).

2. The brief facts of the case, as pleaded in the writ petition, are that the petitioners were appointed as Clerks and Assistant Linemen in the erstwhile Punjab State Electricity Board (PSEB) through an advertisement dated 21.05.2021 (Annexure P-1). Despite the statutory pay scales prescribed under the Punjab State Electricity Board Ministerial Services Group-III Rules, 1985, the Technical Services Grade-III Rules, 1996, and the Revised Pay Scale Rules, 2009, which included a pay scale of Rs.6400-20200 with a Grade Pay of Rs.3400, the petitioners were given a consolidated pay of Rs.19,900/- on account of the State Government Instructions dated 17.07.2020 (Annexure P-3). These instructions, which implemented the 7th Central Pay Commission pay matrix, were adopted by the respondents without amending or repealing the statutory rules. The employees appointed before 17.07.2020 continue to draw higher statutory pay scale for performing the same duties, resulting in unequal treatment and financial loss to the petitioners. Feeling aggrieved, the petitioners made a representation dated 15.05.2025 seeking correction of the pay scale, but no relief has been granted to them. Hence, this writ petition.

3. Learned counsel for the petitioners, *inter alia*, contends that the service conditions and pay scales for Clerks and Assistant Linemen are governed by the statutory Rules specifically enacted for the PSEB

employees namely, The Punjab State Electricity Board Ministerial Services Group-III Rules, 1985, The Punjab State Electricity Board Technical Services Grade-III Rules, 1996 and The Revised Pay Scale Rules, 2009. He emphasized that these Rules possess statutory force and cannot be overridden by mere executive instructions or letters. Learned counsel for the petitioners further submits that the respondents' adoption of the 7^{th} CPC pay scale vide impugned instructions dated 17.07.2020 is contrary to the statutory framework and thus legally unsustainable. The Rules have not been amended or repealed to incorporate the 7^{th} CPC pay matrix and, therefore, the petitioners are entitled to pay fixation as per the existing statutory Rules. He further contends that Government Orders or Instructions cannot replace or change the Rules enacted by law and further the right to "equal pay for equal work" is protected under Articles 14 and 16 of the Constitution of India. Lastly, he submits that the discrimination in pay fixation violates the fundamental rights of the petitioners as similarly situated employees appointed before the Notification dated 17.07.2020, continue to receive the higher pay scale. It is a trite law that the executive instructions in the shape of circulars cannot supersede the statutory rules.

4. Learned counsel for the petitioners, in support of his arguments, has relied upon the judgment passed by this Court in **CWP No.15896 of 2023** and connected matters, titled as ***Saurabh Sharma and others vs State of Punjab and another***, decided on **13.09.2024** and submits that where statutory rules prescribe the pay scale of a post, such

rules have overriding effect and cannot be superseded by executive instructions or circulars. This Court held that applying circulars in place of rules amounts to discrimination and unless the rules are duly amended, pay fixation must strictly follow them. On the same analogy, the petitioners' pay ought to be fixed in accordance with The Punjab State Electricity Board Ministerial Services Group-III Rules, 1985, The Punjab State Electricity Board Technical Services Grade-III Rules, 1996 and The Revised Pay Scale Rules, 2009, which were applicable at the time of their appointment.

5. *Per contra*, learned State counsel as well as learned counsel for respondent No.4, appear on advance notice, and submits that the Instructions dated 17.07.2020 issued by the State Government is binding and reflects the administrative decision to adopt the 7th CPC pay matrix for the employees of the respondent/Corporation, including the petitioners, and these executive instructions are binding and operative. Learned counsel for respondent No.4 further submits that the respondents have acted within their administrative powers to adopt the pay scales in line with central pay recommendations.

6. However, learned State counsel as well as learned counsel for respondent No.4 are not in a position to controvert the fact that The Punjab State Electricity Board Ministerial Services Group-III Rules, 1985, The Punjab State Electricity Board Technical Services Grade-III Rules, 1996 and The Revised Pay Scale Rules, 2009, applicable for

Clerks and Assistant Linemen have not been amended or repealed till date.

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

8. Having considered the rival contentions of learned counsel for the parties, this Court finds merit in the petitioners' claim. The State Government issued Instructions dated 17.07.2020 adopting the 7th Central Pay Commission pay matrix for the employees of the respondent/Corporation, including the petitioners. Learned State counsel argues that these instructions are binding, however, this Court holds that such executive instructions cannot override the statutory rules i.e. The Punjab State Electricity Board Ministerial Services Group-III Rules, 1985, The Punjab State Electricity Board Technical Services Grade-III Rules, 1996 and The Revised Pay Scale Rules, 2009, which clearly require pay fixation according to the State Government's pay scales. Since these rules have not been formally amended to include the 7th CPC pay matrix, thus, the reliance on the government's instructions is legally unsustainable.

9. 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...'

10. 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 aforenoted 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…'*

11. It must be noted that instructions dated 17.07.2020 are executive in nature while The Punjab State Electricity Board Ministerial Services Group-III Rules, 1985, The Punjab State Electricity Board Technical Services Grade-III Rules, 1996 and The Revised Pay Scale Rules, 2009, 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. Rangaswamaeah v. Karnataka Lokayukta, 1998(3) RCR (Criminal) 547: AIR 1998 Supreme Court 2496).***

12. Consequently, the present writ petition is allowed. The respondent/Corporation is directed to fix the pay of the petitioners strictly in terms of the applicable Rules as on the date of their appointment and release the consequential benefits including arrears within a period of three months from date of receipt of certified copy of this order.

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

(HARPREET SINGH BRAR)
JUDGE

23.09.2025
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No