IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.732 of 2019

Decided on: 03rd November, 2026

Sardar Ali and others ...Petitioners

Versus

State of H.P. and others ...Respondents

Coram
Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge
Whether approved for reporting?[1]

For the petitioners:	Mr. Neel Kamal Sood, Senior Advocate with Ms. Nidhi Verma, Advocate.
For the respondents:	Mr. Anup Rattan, Advocate General with Mr. R.P. Singh, Deputy Advocate General, for respondent No.1-State.
	Mr. Ramesh Sharma and Mr. Kulbir Thakur, Advocates, for respondents No.2 to 5.

Jiya Lal Bhardwaj, Judge *(Oral)*

The petitioners by way of present petition have prayed for the following substantive reliefs:-

> *"i) Annexure A-12 dated 17.7.2006 may kindly be quashed and set aside.*
> *ii) Directing the Respondents to place the Applicants carrying the pay scale of Rs. 7220-11660 which has been wrongly shown to have been paid to the Applicants as Rs. 5480-8925. All the Applicants are entitled for the grant of revised pay scale w.e.f. 1.1.1996 as 7220-11660 with all consequential benefits.*
> *iii) The Respondents be restrained from filling up*

[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

the post of Farm Manager or converting the post of Technical Assistant Grade 1 (Field) into that of Farm Manager as shown in Annexure A-12."

2. Shorn of unnecessary details, the key facts of the case are that the petitioners, who are working as Technical Assistants Grade-I (Field), are aggrieved by the Notification dated 17.07.2006 (Annexure A-12), issued by respondent No.2-University, whereby the pay scale of Rs.7220-11660/10025-15100 has been held to be given only to those Technical Assistants Grade-I (Field), who possess the qualification of B.Sc. (Horticulture/Forestry/Agriculture), whereas the petitioners though have been promoted to the post of Technical Assistant Grade-I (Field), but are not possessing the requisite qualification of B.Sc. (Horticulture/Forestry/Agriculture), are thus not held entitled to the said pay scale. It has been averred that the similarly situate persons were granted the pay scale of Rs.2200-4000 vide Notifications dated 27.12.1991 (wrongly mentioned as 11.07.1991) (Annexure A-4)/01.10.1993 on the analogy of Department of Horticulture, which was subsequently revised to the pay scale of Rs.10025-15100/-. This pay scale was given only to those Technical Assistants Grade-I, who had rendered eight years of regular service in the cadre and thereafter, as per

Notification issued by the Government of Himachal Pradesh dated 31.05.2001 (Annexure A-8), the pay scale of Rs.10025-15100 was withdrawn with respect to those employees, who were recruited after 31.05.2001 and their pay scale was fixed as Rs.5480-8925. Subsequently, as per the Notification dated 17.08.2002 (Annexure A-9), respondent No.2-University had also reduced the pay scale of the category of Technical Assistants Grade-I (Field) on the analogy of the Notification of State Government. Thereafter, as per Notification dated 17.07.2006 (Annexure A-12), respondent No.2-University had taken a decision that those persons, who have been appointed as Technical Assistant Grade-I (Field) after 31.05.2001 and do not fulfill the basic qualification of B.Sc. (Horticulture/Forestry/Agriculture) and are in the pay scale of Rs.5480-8925 shall continue in the said scale and those who have already been granted the pay scale of Rs.7220-15100/-, but do not possess the requisite qualification of B.Sc. (Horticulture/Forestry/Agriculture), shall continue in the pay scale already given as a measure personal to them and they shall not be entitled to three tier pay scale. However, the Technical Assistants Grade-I (Field) as at (1) and (2) of the Notification

shall be covered under the Assured Career Progression Scheme.

3. It has further been averred that as per the Notification dated 31.05.2001 (Annexure A-8), the pay scale of Rs.7220-11660/- to future employees, who were employed after 31.05.2001 was withdrawn and since the State of Himachal Pradesh was following the Punjab pattern for the grant of pay scale, had initially granted pay scale of Rs.7220-11660/- on 01.01.1996 on Punjab pattern and thereafter withdrew the same by circulating Notification dated 31.05.2001. However, the Punjab Government again granted the pay scale to its employees by circulating fresh Notification without any condition by withdrawing their earlier Notification as if no Notification was ever issued and once the Punjab Government has granted the pay scale of Rs.7220-11660/-, the State Government, which follows the Punjab pattern, also circulated Notification dated 08.02.2005 (Annexure A-11), withdrawing the earlier Notification. However later on, respondent No.2-University has issued the Notification dated 17.07.2006 (Annexure A-12), whereby the pay scale of Rs.5480-8925 was held to be given to those Technical Assistants Grade-I (Field), who do not fulfill the basic qualification of B.Sc. (Horticulture/Forestry/Agriculture). It has been averred that

Notification could have been made applicable prospectively, since the petitioners were already promoted to the post of Technical Assistant Grade-I (Field), the said Notification could not have been made applicable to them and as such, prayed for quashing the Notification, thereby directing the respondents to place the petitioners in the pay scale of Rs.7220-11660/-.

4. The respondents filed reply to the petition and in preliminary submissions averred that respondent No.2-University has been incorporated under the Himachal Pradesh Universities of Agriculture, Horticulture and Forestry Act, 1986 (Act No.4 of 1987) passed by the H.P. State Legislature. As per the provision 3.5(2)(ii) of Statutes, the Registrar is the officer to sue and to be sued. As regards the pay scale of employees of the University, the amended proviso of Statute 5.6(1) of the Statutes of Respondent No.2-University lays down the criteria. The Recruitment and Promotion Rules and conditions for the release of higher scales of pay for admissibility of special pay and other allowances to the employees shall be the same as applicable from time to time to the employees holding corresponding posts in the concerned Department of H.P. Government with which the present scales have been equated. The Board of Management of

respondent No.2-University has the powers to review the conditions for release of higher scales, scales of pay and allowances attached to the post. The Notification of the State Government issued on 08.02.2005 does not *ipso facto* entitle the petitioners to the pay scale notified by the H.P. Government until adopted by the Board of Management amongst the categories mentioned in the Notification. The petitioners being non-B.Sc. (Agriculture/Horticulture) and promoted as Technical Assistant Grade-I in the pay scale of Rs.5480-8925 were aware of the pay scale and they cannot claim parity with H.P. Horticulture Class-I services, where the minimum qualification even to be promotees is B.Sc. (Agriculture/Horticulture) right from the very introduction of the three tier system w.e.f. 01.01.1991.

5. On merits, it has been averred that prior to the Notification dated 17.07.2006 (Annexure A-12), the pay scale of the Technical Assistants Grade-I (Field) was Rs.5480-8925 as per the University Notification dated 17.08.2002 (Annexure A-9). The said pay scale has been allowed to continue. The petitioners were promoted to the post of Technical Assistant Grade-I (Field) in the year 2004-2005 and 2005-2006 in the pay scale of Rs.5480-8925, prevalent at that time. Pursuant to the promotion orders, they

had joined as Technical Assistants (Grade-I) in the pay scale of Rs.5480-8925 and their pay is regulated in the said scale accordingly. The H.P. Government Finance Department Notification dated 08.02.2005, on the basis of which, the higher scale of Rs.7220-11660 has been claimed by the petitioners, deals with the pay scale allowed to H.P. Class-I (Horticulture Service) consisting of basket of categories including Deputy Director (Horticulture), Horticultural Development Officer, in which the category of Technical Assistant Grade-I can neither be equated nor the said Notification has been adopted by the Board of Management of respondent No.2-University. It has further been averred that as per the bio-data placed on record by the petitioners, some of them were initially appointed as Beldar and then got promotion as Field Assistant Grade-II and thereafter Field Assistant Grade-I and then promoted as Technical Assistant Grade-I. They were never granted the pay scale of Rs.2000-3500/2200-4000 being appointee of 2004-2005 and 2005-2006. The three tier pay scale is not specific only to the category of Horticultural Development Officers, but has been allowed to the incumbents holding the post of Deputy Directors as on 01.01.1996. The relief sought by the petitioners that they should

be granted the pay scale of Rs.7220-11660 would mean jump over three slabs by pay scale, which are Rs.5800-9200; Rs.6400-10640 and Rs.7000-10980, which fall between the scales demanded by the petitioners and what they are in receipt of at present. The technical staff of respondent No.2-University has been equated for the purpose of pay scale with the corresponding posts of technical staff of Horticulture/Agriculture Departments, but there is a marked difference between "post" and "service". It has further been averred that the H.P. Government Finance Department Notification dated 08.02.2005 does not *ipso facto* entitle the petitioners to the pay scale of Rs.7220-10025/- until approved by the Board of Management of respondent No.2-University and as such, prayed for dismissal of the petition.

6. The petitioners filed rejoinder to the reply and controverted the averments made therein.

7. I have heard the learned counsel for the parties and also perused the record carefully.

8. It is not in dispute that the petitioners when promoted to the post of Technical Assistant Grade-I (Field), were granted the pay scale of Rs.5480-8925, as per the Notification

dated 17.08.2002 (Annexure A-9) issued by respondent No.2-Univeristy. No doubt, as per Notification dated 09.06.2000 (Annexure A-5), the Board of Management of respondent No.2-University in its 53rd Meeting held on 16.05.2000, had approved the grant of pay scale of Rs.2200-4000 w.e.f. 01.01.1991, which was further revised to Rs.7220-11660 w.e.f. 01.01.1996 in respect of Technical Assistants Grade-I (Field) of the University, on notional basis w.e.f. 01.01.1991 and with financial benefits from the date of issuance of the Notification. However, the said Notification was modified by respondent No.2-University as per the Notification dated 13.11.2001 based on Notification dated 31.05.2001 (Annexure A-8) issued by the Government of Himachal Pradesh, whereby the pay scale to the post of Technical Assistants Grade-I (Field) was revised to the pay scale as granted to the petitioners and thereafter, another Notification dated 17.08.2002 (Annexure A-9) was issued, revising the pay scale of Rs.7220-11660 to Rs.5480-8925. Based on the said Notification, the petitioners, when promoted to the post of Technical Assistant Grade-I (Field), were granted the said pay scale of Rs.5480-8925.

9. Later on, as per the Notification dated 17.07.2006 (Annexure A-12), the pay scale of Rs.7220-11660/Rs.10025-

15100 was allowed to be retained by those employees, who were already granted the said pay scale, irrespective of the fact that they possess the requisite qualification of B.Sc. (Horticulture/Forestry/Agriculture), as a measure personal to them and they were held not entitled to three tier scale. Further, a condition was stipulated in the Notification that those persons, who are appointed as Technical Assistant Grade-I (Field) after 31.05.2001 and do not fulfill the basic qualification of B.Sc. (Horticulture/Forestry/Agriculture) and are in the scale of Rs.5480-8925 shall continue in the said scale. It was done, keeping in view the fact that the Government of Himachal Pradesh had issued the Notification on 31.05.2001, when it had revised the pay scale to the category of Technical Assistants Grade-I and once the petitioners have been promoted to the post of Technical Assistant Grade-I (Field) on the basis of the pay scale, as notified vide Notification dated 17.08.2002 (Annexure A-9), which was not objected to by them at the time of their promotion, they do not have any right to claim the pay scale of Rs.7220-11660, especially when they were not promoted to the said pay scale. Furthermore, this Notification dated 17.08.2002 (Annexure A-9) has not been assailed by the petitioners.

10. Learned senior counsel representing the petitioners has vehemently argued that once the State Government had been adopting the Notification of the Punjab Government, thereby revising the pay scale from time to time, the petitioners irrespective of the fact that they do not possess the qualification of B.Sc. (Horticulture/Forestry/Agriculture), cannot be deprived of the said pay scale, more especially when the persons, who do not possess the same qualification, have been allowed the said pay scale. However, the said contention cannot be accepted for the reason that the pay scale has been protected only with respect to those persons, who were appointed after issuance of the Notification dated 09.06.2000 and granted the pay scale of Rs.7220-11660/- and when the Notification dated 31.05.2001 was issued by the Government of Himachal Pradesh, respondent No.2-University had taken a decision on 13.11.2001, whereby the pay scale was revised, which finds mention in the Notification dated 17.08.2002 (Annexure A-9) and once the pay scale of the petitioners has been revised and they were promoted to the post of Technical Assistant Grade-I (Field) in the pay scale of Rs.5480-8925, it cannot be said that any injustice has been done to them while issuing the Notification dated 17.07.2006 and thus, the

contention raised by the learned senior counsel is without any substance, and hence rejected. It is also settled law that even if in the past the State Government was adopting the pay scale of other States, it is not bound to follow the same in future. A reference in this regard is made to the judgment of the Hon'ble Supreme Court in ***State of H.P. versus P.D. Attri and others,*** (1999) 3 SCC 217.

11. Learned senior counsel for the petitioners has further argued that once the persons, who have been appointed to the post of Technical Assistant Grade-I (Field), though appointed prior to the petitioners are performing the same and similar duties as performed by the petitioners, the petitioners cannot be denied the said benefit. However, the said contention cannot be accepted for the reason that as per the Notification dated 31.05.2001 issued by the State Government, whereby the pay scale was revised from Rs.7220-11660 to Rs.5480-8925, which was subsequently adopted by the Board of Management of respondent No.2-University in its decision taken on 13.11.2001, when the revised pay scale was issued, which Notification has not been challenged by the petitioners, they cannot be granted any relief.

12. Not only this, even the Notification dated 17.08.2002 (Annexure A-9), as already observed above, whereby the pay scale of the post of Technical Assistant Grade-I (Field) has been revised to Rs.5480-8925, has not been challenged by the petitioners and until or unless the said Notification is held to be bad, no relief can be granted to the petitioners. Thus, the petitioners cannot claim parity with the persons, who were appointed prior to 31.05.2001 and who have already been granted the pay scale of Rs.7220-11660.

13. As per the Notification dated 17.07.2006, as already noticed above, the persons, who were already granted the pay scale of Rs.7220-11660 were allowed to continue in the same pay scale only for the reason that these persons were promoted prior to the issuance of the Notification by respondent No.2-University on 13.11.2001 and earlier to that they were granted the pay scale of Rs.7220-11660 on the basis of the earlier Notification dated 09.06.2000 (Annexure A-5) and thus, the Notification issued by respondent No.2-University on 17.07.2006 cannot be said to be arbitrary or there is no act of discrimination on its part.

14. Resultantly, in view of the observations made hereinabove, I do not find any merit in the present petition and

the same is accordingly dismissed. However, there shall be no order as to costs. Pending application(s), if any, also stands disposed of.

03rd November, 2026 **(Jiya Lal Bhardwaj)**
(ankit) **Judge**