106 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-2733-2026
Date of decision: 24.02.2026

Vinay Katoch and others ....Petitioners

Versus

Indian Red Cross Society and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

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

Mr. Y.P. Singla, Advocate
for respondent No.1-Red Cross Society, Punjab.

HARPREET SINGH BRAR, J. (ORAL)

1. The present petition has been preferred under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing office orders dated 07.01.2026 (Annexure P-10/1 to P-10/4) re-fixing the salary of the petitioner on the pattern of 7th Central Pay Commission matrix, in violation of regularization orders (Annexure P-2), Pay Fixation orders (Annexure P-3) and Service Rules (Annexure P-6). Further, a prayer is made for issuance of a writ in the nature of *mandamus* directing the respondents to refix the salary of the petitioner in the pay band of 10300-34800 + 3200 Grade Pay, along with all allowances applicable under the 5th Punjab Pay Scale matrix.

2. Learned counsel for the petitioners submits that the respondent-Indian Red Cross Society, Punjab State Branch is a statutory body and falls under the definition of State in terms of Article 12 of the Constitution of India. The petitioners were initially appointed on contractual basis, as discernible

from the appointment letter (Annexure P-1) and, are currently working at the post of Clerk. After completion of two years of service, they were regularized in terms of the regularization order (Annexure P-2). The petitioners were under probation for a period of three years and were paid salary as per DC rates for that duration. However, upon successful completion of their probation, their pay was fixed in the pay band of Rs.10,300-34,800 +3200 (Grade Pay); initial start Rs.13,500 as per Rule 11(i) of the Punjab Civil Services (Revised Pay) Scale Rules, 2009 (hereinafter 'Revised Pay Rules, 2009) (Annexure P-4). A copy of the pay fixation order is available at Annexure P-3.

3. He further submits that the Indian Red Cross Society, Punjab State Branch, St. John Ambulance Association, Punjab State Centre, State Red Cross Hospital Welfare Section and Punjab Saket Rules, 1996 (hereinafter 'Service Rules, 1996') (Annexure P-6) applicable to the post of the petitioners also prescribe a pay scale of Rs.10,300-34,800 +3200 (GP). Since the completion of their probation, the petitioners were being paid salary as per this prescribed scale, creating a legitimate expectation that they will continue receiving salary as per the Service Rules, 1996 under which they were regularized. However, on 15.10.2025 (Annexure P-7), the respondent-Society adopted the notification dated 17.07.2020 (Annexure P-8) issued by the respondent-State whereby the salary of the petitioners was refixed under the 7th Central Pay Commission matrix, grossly reducing the same. The services of the petitioners ought to be governed by the Service Rules, 1996, as such, the imposition of the 7th CPC matrix upon them is unsustainable as executive instructions only have the force of law in the absence of statutory rules or a lacuna therein. Learned counsel also places reliance on the judgment rendered by this Court in ***Saurabh***

Sharma and others vs. State of Punjab and others in CWP-15896-2023 (Annexure P-11) wherein the decision to implement 7th CPC, contrary to the applicable rules, was set aside. The said judgment was also upheld by a Division Bench of this Court in ***LPA-2977-2024*** (Annexure P-12) and the Hon'ble Supreme Court in ***SLP(C)-1158-2025*** (Annexure P-13). The petitioners had submitted representation dated 12.10.2025 (Annexure P-14) and sent a legal notice (Annexure P-15) in this regard but to no avail. The conduct of the respondent Society is violative of Articles 14 and 16 of the Constitution as it creates invidious discrimination between similarly situated employees, without any intelligible differentia.

4. *Per contra*, learned counsel for the respondent-Society submits that the petitioners, being employees of the respondent-Society, are governed by their own set of rules and thus, the rules governing regular employees of the State of Punjab cannot be made *ipso facto* applicable to them. Learned counsel relies upon the judgment rendered by this Court in ***Sukhwant Kaur vs. District Red Cross Society, Moga and another 2015 SCC OnLine P&H 9171*** to support his case. The Executive Committee of the respondent-Society, from time to time, adopts government instructions applicable to the employees of the State after modifying the same as per the financial status of the Society, by passing necessary orders. However, that does not place the employees of the respondent-Society at par with the regular government employees or give them any vested or enforceable rights to claim such parity. Furthermore, the reliance on ***Saurabh Sharma (supra)*** is unfounded as the petitioners-employees therein were covered by the Punjab Medical Education (Group-A) Service Rules, 2016 which were statutory in nature while there is nothing on the record which

accords such a character to the Service Rules, 1996. Therefore, the present petition deserves to be dismissed being non-maintainable.

5. Having heard learned counsel for the parties and after perusing the record of the case with their able assistance, it transpires that the pay of the petitioners was fixed as per pay scale of Rs.10,300-34,800 +3200 (GP) in terms of the Service Rules, 1996 and the Revised Pay Rules, 2009. On 15.10.2025, the respondent-Society adopted the instructions dated 17.07.2020 (Annexure P-8) issued by the Government of Punjab for implementation of the 7th Central Pay Commission pay matrix. Accordingly, the pay of the petitioners was refixed vide impugned orders (Annexure P-10/1 to P-10/4). As per Annexure P-9, the gross salary of the petitioner-Vikas Katoch was reduced from Rs.39,239/- to Rs. 34,890/-.

6. It is the case of the petitioners that their service conditions are governed by the Service Rules, 1996 (Annexure P-6) and Appendix A to the same categorically provides at Serial No.16 that for the post of Clerk, the pay scale shall be Rs.10,300-34,800/- with Rs.3,200/- Grade Pay. Furthermore, the Revised Pay Rules, 2009 also provides the same scale, as also indicated by pay fixation order dated 28.11.2024 (Annexure P-3). The crux of the arguments put forth by learned counsel for the petitioners is that the notification dated 17.07.2020 (Annexure P-8), being in the nature of executive instructions, cannot override the Service Rules, 1996 and Revised Pay Rules, 2009 as the latter are statutory in nature.

7. As such, in order for this Court to exercise its writ jurisdiction of this Court under Articles 226/227 of the Constitution, the following seminal questions require to be adjudicated upon:

(i) Whether the Service Rules, 1996 are statutory in nature?

(ii) Whether adoption of the Revised Pay Rules, 2009 by the respondent-Society creates a legal right in the petitioners to enforce the same under writ jurisdiction of this Court?

8. A specific query was put to the learned counsel for the petitioner, inquiring about the source of the rule-making power under which the Service Rules, 1996 were framed as the same has not been indicated in the said Rules (Annexure P-6). Moreover, a perusal of Section 5 of Indian Red Cross Society Act, 1920 would reflect that the rule-making power has been accorded to the Managing Body but in a specific context, as mentioned below:

*"**5. Power to make rules.—***
(1) The Managing Body may, with the previous approval of the President, make rules for the management, functions, control and procedure of the Society. The rules may provide among other matters for the following, namely:—
(a) the conditions of membership of the Society;
(b)the appointment and term of office of members of the Managing Body;
(c) the choice of representatives on international and other Committees;
(d) the procedure of election of members by State Branch Committees;
(e) the constitution of Finance, Medical and other Committees and the delegation of powers to them;
(f) the powers exercisable by the Managing Body in supervising the activities of State Branch Committees;
(g) delegation of financial and administrative powers to the Chairman and the Vice-Chairman;
(h) disqualifications for membership of the Managing Body;
(i) the term of office and conditions of service of the Secretary-General and the Treasurer and other officers of the Society;
(j) the Regulation of the procedure generally of the Society and Managing Body.

(2) The Central Government shall cause every rule made under this section to be laid as soon as may be after the rule is made before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more

successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, that rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

9. However, learned counsel for the petitioners expressed his inability to trace the origin of the Service Rules, 1996 to an enabling provision in the parent statute. In absence thereof, the Service Rules, 1996 cannot be considered to have a statutory nature and therefore, cannot be implemented by invoking writ jurisdiction of this Court. While it is true that the respondent-Society performs many public welfare functions and has the Governor of Punjab at the helm of its affairs in an *ex officio* capacity, however, the nature of relationship between the respondent-Society and its employees remains private in nature.

10. A Full Bench of this Court in ***Jasbir Singh vs. Commissioner (Appeals), Jalandhar Division and others, 2011(4) RCR (Civil) 1***, has held that the rules created by a society for its employees for internal management cannot be said to have acquired a statutory status. Speaking through Justice Satish Kumar Mittal, the following was opined:

"37. There are three categories of Service Rules which can be framed to regulate the conditions of service of the employees of the Society. ***<u>In first category, a registered Society under the Societies Act can frame its own Service Rules to regulate the service conditions of its employees. The Rules may be binding between the Society and its employees.</u> <u>The second category of the Rules is those rules which are formulated under Section 85(2) (xxxviii), which empower the Government to frame Service Rules for any Co-operative Society or for class of societies with regard to qualifications for employees of a Society or class of society and the conditions of service subject to which persons may be employed by Societies. Such Rules so framed have the force of Statute and are</u>***

deemed to be incorporated as a part of the Statute, whereas this principle does not apply to the first category of Rules framed by the Society because those Rules merely govern the internal management, business or administration of a society. They are of the nature of the Articles of Association of a Company incorporated under the Companies Act. They may be binding between the persons affected by them, but they do not have the force of a statute. *But the second category of Rules is the Statutory Rules and they have the force of the statute. Similarly, there is third category of Rules known as Common Cadre Rules. These rules could have been framed under Section 84-A of the Punjab Act which provide that an apex society may suo motu and when required to do so by the Registrar shall constitute a common cadre of all, or specified class of employee in the service of that society or in the service of the central societies which are members of the apex society or in the service of the primary societies which are members of the apex society. Sub-section (2) further provides that when a common cadre of employee is constituted under sub-section (1), the Registrar shall notwithstanding anything contained in any law for the time being in force or any agreement, settlement or award determine the pay scales and allowances admissible to such employees and Apex Society shall make rules for the regulation of recruitment and conditions of service of such employees with the prior approval of the Registrar. Therefore, the Common Cadre Rules framed under sub-section (2) by the Registrar are also having the statutory colour and stand on the same footing as that of the Statutory Rules."*

(emphasis added)

11. A two-Judge bench of the Hon'ble Supreme Court in ***St. Mary's Education Society and another vs. Rajendra Prasad Bhargava and others (2023) 4 SCC 498*** opined that while a writ petition under Article 226 of the Constitution is maintainable against an individual or a body performing public functions, it is also pertinent that the specific act challenged by means of the writ petition has a direct nexus with discharge of the said public duty. It was further observed that unless the employment is governed by statutory rules, the relationship between a private unaided school and its employees cannot be deemed to have a public nature. Speaking through Justice J.B. Pardiwala, the following was opined:

"68. We may sum up our final conclusions as under:-

(a) ***An application under Article 226 of the Constitution is maintainable against a person or a body discharging public duties or public functions.*** *The public duty cast may be either statutory or otherwise and where it is otherwise, the body or the person must be shown to owe that duty or obligation to the public involving the public law element. Similarly, for ascertaining the discharge of public function, it must be established that the body or the person was seeking to achieve the same for the collective benefit of the public or a section of it and the authority to do so must be accepted by the public.*

(b) ***Even if it be assumed that an educational institution is imparting public duty, the act complained of must have a direct nexus with the discharge of public duty.*** *It is indisputably a public law action which confers a right upon the aggrieved to invoke the extraordinary writ jurisdiction under Article 226 for a prerogative writ. Individual wrongs or breach of mutual contracts without having any public element as its integral part cannot be rectified through a writ petition under Article 226. Wherever Courts have intervened in their exercise of jurisdiction under Article 226, either the service conditions were regulated by the statutory provisions or the employer had the status of "State" within the expansive definition under Article 12 or it was found that the action complained of has public law element.*

(c) It must be consequently held that ***while a body may be discharging a public function or performing a public duty and thus its actions becoming amenable to judicial review by a Constitutional Court, its employees would not have the right to invoke the powers of the High Court conferred by Article 226 in respect of matter relating to service where they are not governed or controlled by the statutory provisions.*** *An educational institution may perform myriad functions touching various facets of public life and in the societal sphere. While such of those functions as would fall within the domain of a "public function" or "public duty" be undisputedly open to challenge and scrutiny under Article 226 of the Constitution, the actions or decisions taken solely within the confines of an ordinary contract of service, having no statutory force or backing, cannot be recognised as being amenable to challenge under Article 226 of the Constitution. In the absence of the service conditions being controlled or governed by statutory provisions, the matter would remain in the realm of an ordinary contract of service.*

(d) Even if it be perceived that imparting education by private unaided the school is a public duty within the expanded expression of the term, an employee of a nonteaching staff engaged by the school for the purpose of its administration or internal management is only an agency created by it. It is immaterial

whether "A" or "B" is employed by school to discharge that duty. In any case, the terms of employment of contract between a school and nonteaching staff cannot and should not be construed to be an inseparable part of the obligation to impart education. This is particularly in respect to the disciplinary proceedings that may be initiated against a particular employee. It is only where the removal of an employee of nonteaching staff is regulated by some statutory provisions, its violation by the employer in contravention of law may be interfered by the court. But such interference will be on the ground of breach of law and not on the basis of interference in discharge of public duty.

(e) From the pleadings in the original writ petition, it is apparent that no element of any public law is agitated or otherwise made out. ***<u>In other words, the action challenged has no public element and writ of mandamus cannot be issued as the action was essentially of a private character.</u>****"*

(emphasis added)

12. Subsequently, a two-Judge bench of the Hon'ble Supreme Court in ***Army Welfare Education Society New Delhi vs. Sunil Kumar Sharma and others 2024 SCC Online 1683*** further illuminated that the relationship between a private educational institution and its employees possesses a contractual nature, lacking a public law element. As such, issues pertaining to service would not be amenable to writ jurisdiction under Article 226 of the Constitution of India. Speaking through Justice J.B. Pardiwala, the following was held:

"42. *In view of the aforesaid, nothing more is required to be discussed in the present appeals. We are of the view that the High Court committed an egregious error in entertaining the writ petition filed by the respondents herein holding that the appellant society is a "State" within Article 12 of the Constitution.* ***<u>Undoubtedly, the school run by the Appellant Society imparts education. Imparting education involves public duty and therefore public law element could also be said to be involved. However, the relationship between the respondents herein and the appellant society is that of an employee and a private employer arising out of a private contract. If there is a breach of a covenant of a private contract, the same does not touch any public law element.</u>*** *The school cannot be said to be discharging any public duty in connection with the employment of the respondents."*

(emphasis added)

13. The respondent-Society is an independent entity with its own set of rules meant for internal regulation of the service of its staff. Admittedly, the respondent-Society often adopts certain rules and regulations issued by the Government of Punjab for its employees, after modifying them to suit the needs of the Society. However, mere adoption of these rules and regulations by the respondent-Society does not turn the employees of the respondent-Society into government servants. Therefore, the petitioners, being employees of the respondent-Society, cannot claim enforcement of Revised Pay Rules, 2009 as the same only meant to create a vested right qua the same in the employees of the State government. Moreover, the respondent-Society has duly adopted the instructions dated 17.07.2020 (Annexure P-8) in the meeting of the Managing Body held on 15.10.2025 (Annexure P-7). Considering the respondent-Society is an independent entity, it retains the right to manage its internal affairs, which includes the service conditions of its employees. Moreover, as discussed above, in absence of any statutory rules, the nature of relationship between the respondent-Society and its employees is akin to that of a private employer and a private employee as it does not involve any public law element. Therefore, the respondent-Society can justifiably change the service conditions of the petitioners by adopting new instructions and without amending Service Rules, 1996.

14. Additionally, a two-Judge bench of the Hon'ble Supreme Court in ***South Indian Bank Ltd. and others vs. Naveen Mathew Philip and another 2023 SCC OnLine SC 435*** has categorically held that that the High Court cannot exercise its jurisdiction under Article 226 of the Constitution in order to provide relief by issuing a writ of *mandamus* where no legal right exists.

Speaking through Justice M.M. Sundresh, the following was held:

> *"16. Approaching the High Court for the consideration of an offer by the borrower is also frowned upon by this Court.* ***A writ of mandamus is a prerogative writ. In the absence of any legal right, the Court cannot exercise the said power.*** *More circumspection is required in a financial transaction, particularly when one of the parties would not come within the purview of Article 12 of the Constitution of India. When a statute prescribes a particular mode, an attempt to circumvent shall not be encouraged by a writ court. A litigant cannot avoid the noncompliance of approaching the Tribunal which requires the prescription of fees and use the constitutional remedy as an alternative…"*

15. In view of the discussion above, this Court has arrived at the following conclusions:

> *(i) In absence to any material indicating the contrary, the Service Rules, 1996 are non-statutory in nature, and therefore, the writ jurisdiction of this Court cannot be invoked to enforce the same.*
>
> *(ii) As such, no enforceable legal right is created in the petitioner by the previous act of adoption of the Revised Pay Rules, 2009 by the respondent-Society, to invoke writ jurisdiction of this Court.*

16. Considering the lack of a public element with respect to the relationship between the petitioners and the respondent-Society, this Court is of the considered opinion that interference in the present case would not be justified. As such, the respondent-Society did not commit any error in adopting the instructions dated 17.07.2020 (Annexure P-8) even if it contradicts the Service Rules, 1996 and Revised Pay Rules, 2009. Accordingly, the present petition is dismissed.

17. Pending miscellaneous application(s), if any, shall also stand disposed of.

(HARPREET SINGH BRAR)
JUDGE

24.02.2026
Neha

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