



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-7044-2000 (O&M)

Kulwant KaurPetitioner

Versus

State of Punjab and anotherRespondents

1.	The date when the judgment is reserved	27.01.2026
2.	The date when the judgment is pronounced	03.02.2026
3.	The date when the judgment is uploaded on	03.02.2026
4.	Whether only operative part of the judgment is pronounced or full judgment is pronounced	Full
5.	The delay, if any, of the pronouncement of full judgment, and reasons thereof.	Not applicable

CORAM: HON’BLE MR. JUSTICE NAMIT KUMAR

Argued by : Mr. Ashwani Kumar Chopra, Senior Advocate assisted by
Ms. Gurpreet Kaur Bhatti, Advocate for the petitioner.

Mr. Surya Kumar, A.A.G., Punjab.

NAMIT KUMAR, J.

1. The petitioner has filed the instant writ petition under Articles 226 & 227 of the Constitution of India, seeking a writ of certiorari for quashing the order dated 18.05.2000 (Annexure P-18), whereby pay of the petitioner was refixed and recovery was ordered to be effected from her. Further, seeking a writ of mandamus, directing the respondents not to withdraw the benefits which have already been availed by the petitioner and to fix the seniority of the petitioner from the date of her joining as Clerk in accordance with the rules.
2. The brief facts, as have been pleaded in the present

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petition, are that the petitioner, upon selection by the Punjab Subordinate Services Selection Board, was appointed as a Clerk, vide letter dated 02.09.1983 (Annexure P-1) and she joined in the office of Chief Engineer, Public Works Department (B&R) Headquarter, Patiala on 08.09.1983. Thereafter, the petitioner got married at Sirhind, where her in-laws were permanently settled and after she was blessed with a child, she submitted a representation dated 25.03.1987 (Annexure P-2) to respondent No.2-Chief Engineer (NH) Punjab, PWD (B&R), Patiala, requesting to transfer her from the Head Office, Patiala to the National Highway (4LP) Circle, Chandigarh with a posting at Sirhind. The said request was accepted by the respondents and accordingly, the petitioner was transferred from the Head Office, Patiala to the National Highway Circle, Chandigarh, vide order dated 15.04.1987 (Annexure P-3), with the condition that her seniority in the National Highway Circle, Chandigarh would be determined from the date of her joining therein and that she would have no lien in the Head Office, Patiala. It has further been stated that on the transfer of the petitioner, her pay was duly protected. Thereafter, on 15.03.1988, the petitioner again submitted representation (Annexure P-5) to respondent No.2, for her transfer to the Head Office, Patiala in view of her changed family circumstances. In furtherance thereof, the Superintending Engineer, National Highway Circle, Chandigarh addressed a letter dated 24.04.1990 (Annexure P-6) to respondent No.2 recommending that the petitioner be transferred back to the Head Office, Patiala. The Superintending Engineer, National Highway Circle, Chandigarh again sent a letter dated 10.05.1990

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(Annexure P-7) to respondent No.2 requesting that orders for transfer of the petitioner and two other Clerks may be issued at the earliest. Finally, the request of the petitioner was accepted and she was transferred back to the Head Office, Patiala, vide order dated 29.05.1990 (Annexure P-9) subject to the condition that her seniority would be placed at the bottom of the seniority list of Clerks at the Head Office, Patiala, however, her pay was ordered to be protected. Pursuant thereto, the petitioner joined back at Head Office, Patiala on 31.05.1990 (Annexure P-11). Thereafter, the basic pay of the petitioner was fixed in the pay scale of Rs.1200-2100/- w.e.f. 01.09.1988 which become admissible on completion of five years of service and further fixed at Rs.1230/- w.e.f. 01.09.1989, vide order dated May, 1991. Thereafter, the Superintending Engineer, National Highway Circle, Chandigarh circulated a seniority list of Clerks of the National Highway Circle, Chandigarh, however, the name of the petitioner did not mention therein. Aggrieved by, the petitioner submitted a representation through respondent No.2. While forwarding the said representation, respondent No.2 addressed to the Superintending Engineer, National Highway Circle, Chandigarh that since the name of the petitioner had not been reflected in the seniority list of the Clerks of the National Highway Circle, Chandigarh, her pay had not been disbursed in accordance with later circular of pay revision and requested that the needful be done within 07 days by settling the arrears of pay due to the petitioner. In response thereto, the Superintending Engineer, National Highway Circle, Chandigarh, vide reply dated 12.12.1990, informed respondent No.2 that the petitioner

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had already been granted the admissible pay scale as per office order dated 15.10.1990. Thereafter, the petitioner was confirmed as Clerk, vide office order dated 11.11.1992 issued by respondent No.2 in pursuance of Government of Punjab, Department of Personnel and Administrative Reforms, notification dated 04.04.1991 and the petitioner also qualified the Assistant Grade Examination in the year 1994. Thereafter, the petitioner was designated as Senior Clerk in the pay scale of Rs.1200-2100/-, vide office order dated 04.04.1997, w.e.f. 01.07.1995. Subsequently, the petitioner was granted the revised pay scale of Rs.4020-6200/- w.e.f. 01.01.1996 and her pay was revised at Rs.4550/- w.e.f. 01.01.1996 and further at Rs.4700/- w.e.f. 01.09.1996. Further, on giving her first proficiency step-up, her basic pay was fixed at Rs.4850/- w.e.f. 08.09.1996 and thereafter, at Rs.5000/- w.e.f. 01.09.1997 and finally the basic pay of the petitioner was fixed at Rs.5300/- w.e.f. 01.09.1999. Thereafter, the petitioner, vide her letter dated 11.06.1996, requested respondent No.2 to consider her seniority sympathetically w.e.f. 08.09.1983 i.e. the date on which she initially joined as Clerk in the Head Office, Patiala. However, the petitioner was issued a show cause notice dated 28.10.1999 (Annexure P-16), wherein it was stated that upon her re-transfer to the Head Office, Patiala, her pay was not required to be protected as Senior Clerk and required to be fixed in the pay scale of Rs.950-1800/-. It was further stated that in view of the audit objection, her pay was required to be re-fixed in the pay scale of Clerk. Her objections were sought to the proposed re-fixation of pay which

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was submitted by the petitioner on 23.12.1999 (Annexure P-17), wherein it was stated that her basic pay was liable to be protected under the relevant provisions of the Punjab Civil Services Rules read with the Punjab Financial Regulations. She also pointed out that had she continued in the Circle Office, she would have been entitled to the pay scale of Rs.1500-2600/- (admissible on completion of ten years of service), however, instead of allowing her the said scale, by taking into account the services rendered by her in the same office, except the short period when she was transferred to National Highway Circle, Chandigarh, the pay scale of Rs.1200-2100/- (admissible on completion of five years of service) was granted to her vide office order dated 15.10.1990 (Annexure P-12) and further, revised pay scale had also been withdrawn from her. Thereafter, respondent No.2, vide order dated 18.05.2000 (Annexure P-18), while rejecting the reply filed by the petitioner, has re-fixed the pay scale of the petitioner as Rs.950-1800/- and ordered recovery of an amount of Rs.64,742/- to be effected from the petitioner in 20 equal installments. As such, apart from reducing the pay of the petitioner by Rs.851/- per month, recovery of the alleged excess amount was also sought to be made, vide impugned order dated 18.05.2000, which has been challenged in the present petition.

3. While issuing notice of motion in the present petition, vide order dated 01.06.2000, recovery was stayed. Thereafter, vide order dated 24.10.2002, the instant petition was admitted.

4. Written statement on behalf of respondents No.1 & 2 has been filed through Sh. Malwinder Singh, Registrar, Punjab, PWD B&R



Branch, Patiala, wherein it has been stated as under :-

“Para No.3 : Contents of Para No.3 are admitted to the extent that the petitioner submitted request Annexure/P-2 for transfer to Sirhind. Since the different set of service Rules govern the service conditions of the officials working in the Head Office i.e. Respondent No.2 as well as of the field offices, as such on petitioners seeking transfer from Head office to field office as per Ann/P-2 the petitioner under the provisions of the instructions issued vide circular letter No.3344-48 dt. 26-5-60 (Annexure/R-I) as well as the orders of this Hon'ble court dt. March 30,1981 in CWP No.329 of 1981 titled Hari Ram Suman, Accounts Clerks V/S State of Punjab, an official like the petitioner cannot be allowed seniority on account of the fact that the seniority is being maintained at circle level. Keeping in view these facts, the petitioner was ordered to be transferred from the office of Respondent No.2 to the field offices vide Office/O No.105-EIII-83/470/EIII dated 15.4.87 (Annexure/P-3), which she readily accepted and did not raise any objection. For these reasons, the CWP deserves dismissal.”

5. Learned Senior counsel for the petitioner has argued that during the pendency of the present petition, the petitioner had already retired from service, on attaining the age of superannuation, on 31.08.2016 and as such, her claim qua seniority has been rendered infructuous. He has further submitted that since the petitioner remained in continuous service w.e.f. 08.09.1983, except for a brief period from 15.07.1987 to 31.05.1990, during which she worked in the field office and her pay was protected when she was transferred from the head office to field office and again when she was transferred back to the head office, therefore, the impugned order whereby the pay of the petitioner has been reduced and recovery has been ordered is totally illegal, arbitrary and unsustainable in law and is liable to be set aside.

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6. Per contra, learned State counsel has submitted that since the petitioner was transferred from the head office to field office and again transferred back to the head office, at her own request, the respondents were justified in re-fixing her pay, vide impugned order dated 18.05.2000, and therefore, the instant petition deserves to be dismissed.

7. I have heard learned counsel for the parties and perused the relevant documents.

8. The facts are not in dispute that the petitioner was initially appointed as Clerk in the head office on 02.09.1983 and she joined in the office of Chief Engineer, Public Works Department (B&R) Headquarter, Patiala on 08.09.1983. The petitioner remained in continuous service from 08.09.1983 except for a brief intervening period, during which she was transferred from the head office to field office, vide order dated 15.04.1987 and again transferred back from field office to head office, vide order dated 29.05.1990 and on both the occasions her pay was protected. The very purpose of protection of pay of an employee is that there is no harm caused to him/her on transfer from head office to field office or vice versa. Once the pay of the petitioner was protected and there is no break in service, there is no justification to reduce her pay scale and pay. The service rendered by the petitioner in the head office and the field office is regular service and cannot be washed away for the grant of pay scale/revised pay scale. Therefore, this Court is of the considered opinion that the impugned order dated 18.05.2000, insofar as it directs re-fixation of the



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petitioner's pay and recovery of the alleged excess amount, cannot be sustained in law and is liable to be set aside.

9. While dealing with the similar issue, the Madras High Court in its judgment passed in ***Writ Petition Nos.40424 to 40426 of 2002 titled as 'Union of India (UOI) Vs. The Central Administrative Tribunal, Chennai Bench' decided on 30.06.2026*** has observed that employees transferred on their own request to a new post within the same pay scale are entitled to pay protection and counting of past service for pension computation but not for seniority, which begins from the date of joining the new post. The relevant portion of the said judgment reads thus :-

“6. In the present case, it is no doubt true that it had been indicated that the employee would be considered as a new recruit, but that condition must be taken to mean that the concerned employee on transfer cannot carry his seniority along with him. In other words, he would be treated as juniormost. Such a condition was obviously included to protect the existing incumbents in the office of the Accountant General, Madras. As rightly pointed out by the Tribunal the case of the present transfer has to be considered as contemplated under Rule 15(a) and, therefore, Rule 22(I)(a)2) or Rule 22(I)(a)(3) would be applicable. In this context, it has to be noticed that the pay scale in both the organisations, namely, the University Grants Commission as well as the Office of the Accountant General, Madras was same. Therefore, Rule 22(I)(a)(3) may not be strictly applicable and on the other hand Rule 22(I)(a)(2) can be applied as has been done by the Tribunal.

7. The Tribunal has also referred to Rule 26 of the CCS (Pension) Rules, applicable for the purpose of computing pension, and observed that past service should be counted. Since the method of recruitment was same and the application for transfer had been forwarded by the original employee, namely, the University Grants Commission, to



the Office of the Accountant General and since both the organisations were admittedly governed by the same set of Rules, namely, Fundamental Rules, the logic adopted by the Tribunal appears to be acceptable.

8. *For the aforesaid reasons, we are inclined to sustain the order passed by the Tribunal. It is however made clear that protection is given only with respect to pay and the period of service for the purpose of computation of pension. However, the contesting respondents here cannot claim any seniority over any incumbent and their seniority has to be counted from the date of joining in the Office of the Accountant General, Madras.”*

9. To the similar effect is the judgment of the Madras High Court in ***Writ Petition No.9799 of 2018 titled as ‘E. Chandramouleeswara Gupta Vs. Union of India rep. By the General Manager, Southern Railway, Park Town, Chennai-3 and others’ decided on 27.11.2018***, wherein it has been held that pay protection of an employee must be maintained upon his repatriation or transfer if no pre-condition for pay reduction was imposed at the time of such repatriation or transfer.

10. So far as the claim of the petitioner qua her seniority is concerned, once the transfer of the petitioner was made on her own request, she was not entitled for seniority and was rightly placed at the bottom of the seniority list. Moreover, the petitioner has already retired from service on 31.08.2016 and her claim with respect to seniority has admittedly become infructuous.

11. In view of the above, the present petition is partly allowed and the impugned order dated 18.05.2000, whereby the pay scale of the petitioner has been reduced and her pay has been re-fixed at a lower side is set aside with all consequential benefits, which shall be released



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to the petitioner within a period of three months from the date of receipt of certified copy of this order.

12. Pending application, if any, shall stands disposed of accordingly.

03.02.2026
Kothiyal

(NAMIT KUMAR)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No