

CWP-23208-2016 and two connected matters

2026.PHHC:057518



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

208(3 cases)

Date of decision:16.04.2026

1.

CWP-23208-2016

S.K. Gupta and others

.....Petitioners

VERSUS

State of Punjab and others

.....Respondents

2.

CWP-1508-2017

Manu Sharma and others

....Petitioners

VERSUS

State of Punjab and others

...Respondents

3.

CWP-25274-2023

Pankaj Kapoor

....Petitioner

VERSUS

State of Punjab and another

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...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present : Mr. R.K. Arora, Senior Advocate with Mr. Prabhat K. Jalbera and Mr. J.S. Bhogal, Advocates for the petitioners in CWP-1508-2017.

Mr. Dhiraj Chawla, Advocate for the petitioner(s) in CWP-25274-2023.

Mr. Manoj K Sood, Advocate for the petitioner(s) in CWP-23208-2016.

Mr. Vikas Sonak, DAG Punjab-State.

Mr. D.S. Sobti, Advocate for respondent No.2 in CWP-23208-2016.

Mr. Sarthak Soni, Advocate for Mr.Sanjeev Soni, Advocate for respondent NO.2 in CWP-25274-2023 and respondents No.3 and 4 in CWP-1508-2016.

Mr. H.K. Aurora, Advocate for respondent No.3 in CWP-23208-2016.

Ms. Neha Randhawa, Advocate for Mr. Parambir Singh, Advocate for respondent NO.4-MC Moga in CWP-23208-2016.

HARPREET SINGH BRAR, J. (Oral)

CM-5719-CWP-2026 in CWP-23208-2016

The present application has been filed under Section 151 of CPC for exempting from filing certified/true typed copy of document as Annexure R-2/1 and permission to place on record short reply on behalf of respondent No.2.

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In view of the grounds mentioned in the application, the same is allowed, Annexure R-2/1 along with reply on behalf of respondent No.2 is ordered to be taken on record, subject to all just exceptions.

Registry is directed to place the same at an appropriate place.

MAIN CASES

1. This order shall dispose of the above-mentioned three writ petitions as they arise from a similar factual matrix. However, for the sake of brevity, the facts are taken from **CWP-23208-2016**.

2. The petitioners have approached this Court by filing the present writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned order dated 26.09.2016 (Annexure P-5) passed by respondent No.1 being illegal, arbitrary and in violation of principles of natural justice and to stay the operation of said order. Further praying for issuance of a writ in the nature of *mandamus* directing the respondents to promote the petitioners as Joint Controller (F&A) in the pay scale of 15600-39100+7800 with the initial start of Rs.31520/-.

PETITIONERS' CONTENTION

3. Learned Senior Counsel for the petitioner(s), *inter alia*, contends that petitioners No. 1 to 4 were appointed as Accountants (Grade-I)

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in the year 1984, whereas petitioner No. 5 was appointed in the year 1999 as Accountant (Grade-I). The post of Accountant (Grade-I) is the feeder cadre for promotion to the post of Deputy Controller (F&A), and all the petitioners were promoted from time to time to the said post. Upon such promotion, the petitioners were placed in the revised pay scale of Rs. 15,600–39,100 with Grade Pay of Rs. 6,600 w.e.f. 01.12.2011, as is evident from notification dated 15.12.2011 (Annexure P-6).

3.1 The grievance of the petitioner(s) in the present case arises from order dated 26.09.2016 (Annexure P-5), whereby the petitioners have been placed in a lower pay scale of Rs. 10,300–34,800 with Grade Pay of Rs. 4,800 with effect from the date of issuance of the said order. The impugned order came to be passed while deciding representations submitted by certain other employees, to which the present petitioners were not parties, and in purported compliance with directions issued by this Court in CWP-8740-2015. It is contended that the said order has been passed without affording any opportunity of hearing to the petitioners or issuing any show cause notice, thereby violating principles of natural justice.

3.2 The rationale assigned in the impugned order is that Deputy Controllers (F&A) working in Local Government are not entitled to the same pay scale as their counterparts in the Finance Department, on account of lack of parity in qualifications and responsibilities, particularly as officers

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in the Finance Department possess higher qualifications and have cleared the SAS examination. Learned counsel, however, submits that such reasoning is misconceived, as the nature of duties, responsibilities, and functions performed by Deputy Controllers (F&A) in both departments are substantially similar, thereby justifying parity in pay scales.

3.3 It is further contended that, by virtue of the impugned order, the petitioners have been placed in the same pay scale as that of the feeder cadre, i.e., Accountant (Grade-I), which is impermissible in law and contrary to the judgment of the Division Bench of this Court in ***Sunder Lal Jain versus State of Haryana (CWP-4176-1988***, decided on 12.10.1994). It is a settled proposition of law that upon promotion, an employee is entitled to the pay scale attached to the promotional post, and such benefit cannot be withdrawn unilaterally.

3.4 Learned counsel further refers to the appointment letter dated 02.01.1984 (Annexure P-1), issued under sub-Section (7) of Section 71 of the Punjab Municipal Corporation Act, 1976 read with Rule 5(2)(i) of the Punjab Municipal Corporation Services (Recruitment and Conditions of Service) Rules, 1978, and submits that the posts in question are non-cadre posts. It is argued that, in view of parity with corresponding posts in the Finance Department, the pay scale of Deputy Controller (F&A) was rightly granted at the same level.

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3.5 It is also submitted that, pursuant to interim orders passed by this Court, four of the petitioners continued in service till their superannuation, while petitioner No. 5 is still in service. Reliance is further placed on order dated 26.10.2013 (Annexure P-7), whereby the pay scale of Rs. 15,600–39,100 with Grade Pay of Rs. 6,600, with an initial start of Rs. 25,200/-, was granted to the post of Deputy Controller (F&A) in accordance with notification dated 15.12.2011 (Annexure P-6). It is contended that without withdrawing the said order (Annexure P-7), the respondents could not have unilaterally reduced the pay scale granted to the petitioners.

3.6 It is further argued that the promotion orders of the petitioners have neither been challenged nor withdrawn and continue to hold the field. The order dated 26.10.2013 (Annexure P-7), having been passed by the competent authority in exercise of delegated statutory powers, carries binding force and remains operative. Consequently, the impugned order is stated to be unsustainable in law and liable to be set aside.

4. *Per contra*, learned State Counsel as well as learned counsel appearing on behalf of the respondents submit that, upon implementation of the recommendations of the 5th Pay Commission, the pay scale of Accounts Officer/Deputy Controller (Finance & Accounts) working under the Local Government Department was revised to Rs.10,300–34,800 with Grade Pay of Rs.4,800. In contrast, the Deputy Controller (F&A) working under the

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Finance Department was placed in the higher pay scale of Rs.10,300–34,800 with Grade Pay of Rs.5,400.

4.1 It is contended that the post of Deputy Controller (F&A) in the Finance Department cannot be equated with the corresponding post in the Local Government Department, primarily on account of differences in qualifications and service requirements, particularly the mandatory requirement of clearing the SAS examination in the Finance Department. On this basis, it is argued that the two sets of employees cannot be treated as similarly situated for the purposes of pay parity.

4.2 Learned counsel further submits that the impugned speaking order dated 26.09.2016 (Annexure P-5) has been passed in order to remove the pay anomaly and in compliance with the directions issued by this Court in CWP-8740-2015, and thus, the present writ petitions are liable to be dismissed.

4.3 However, learned counsel for the respondents, as well as learned State Counsel, are unable to controvert the position that order dated 26.10.2013 (Annexure P-7) was issued by the competent authority. It is also not disputed that the said order was issued in the name of the Governor by the Secretary to the Government of Punjab, Department of Local Government, whereby the pay scale of Rs.15,600–39,100 with Grade Pay of Rs.6,600, as adopted from the

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Punjab Government, Finance Department (FP-1 Branch), was extended to the post of Deputy Controller (F&A) working under the Local Government Department.

5. Having heard learned counsel for the parties and upon perusal of the record, it transpires that all the petitioners were initially appointed as Accountants (Grade-I), which is the feeder cadre for promotion to the post of Deputy Controller (F&A), and were subsequently promoted to the said post from time to time. It is further evident that the Government of Punjab issued notification dated 15.12.2011 (Annexure P-6) revising the pay scales of certain categories of posts with effect from 01.12.2011, including the post of Deputy Controller (F&A), placing it in the pay scale of Rs.15,600–39,100 with Grade Pay of Rs.6,600. The notification (Annexure P-6) be reads as under:-

“Government of Punjab

Department of Finance

(Finance Personnel-I Branch)

Dated, Chandigarh the 15th December, 2011

To

1. The Director,

Treasuries & Accounts Punjab

Chandigarh.

2. The Examiner Local Fund Accounts, Punjab

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Chandigarh.

Subject: Revision of Pay Scales of certain categories of posts.

Sir,

I am directed to invite a reference to Punjab Government Notification No.5/10/09-5FP1/207, dated 27.5.2009 and to say that the Governor of Punjab is pleased to decide that the scales of pay of the following posts of the Department of Finance shall stand further revised as under with effect from the 1st December, 2011:-

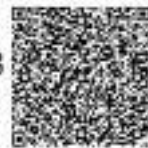
Name of the Post	Pre revised scale of pay	Revised Scale of pay w.e.f. 1.1.2006			Revised scale of pay w.e.f. 1.12.2011		
		Pay Band	Grade Pay	Initial Pay	Pay Band	Grade Pay	Initial Pay
Joint Controller (F&A)	10025-15100	15600-39100	6000	25250	15600-39100	7800	31520
Deputy Controller (F&A)	7880-11660	10300-34800	5400	20300	15600-39100	6600	25250
Assistant Controller (F&A)	7220-11660	10300-34800	5000	18450	15600-39100	5400	21000
Section Officer (SAS)	7000-10980	10300-34800	4400	17420	10300-34800	5000	18450

2. The above noted revised scales of pay shall also be applicable to the corresponding posts of Local Fund Accounts Wing of the Department of Finance.

3. The pay in the above mentioned revised scales effective from 1st December, 2011 shall be fixed prospectively and there shall be no element, whatsoever, of retrospectivity in this regard and there will be no question of payment of arrears or of fixation of pay on notional basis from any previous date.

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4. *The employees working on the above noted posts shall not be entitled to any special grade pay in terms of Government circular letter No.5/10/09-FPI/807 dated 14th November, 2011.*

5. *The necessary amendments in the rules will be made in due course.*

Sd/- Under Secretary Finance

Dated 15th December, 2011”

5.1 The aforesaid position has not been controverted by respondent No.1–Department of Local Government. Rather, the stand taken in the written statement is that the matter was revisited and a speaking order dated 26.09.2016 (Annexure P-5) came to be passed. However, a perusal of the record clearly reveals that the earlier order dated 26.10.2013 (Annexure P-7), whereby the aforesaid pay scale was adopted by the Department of Local Government in the name of the Governor, has neither been withdrawn nor superseded by any other order passed by competent authority. The relevant extract of order (Annexure P-7) be reads as under:-

“The Governor of Punjab is pleased to accord approval for the adoption of pay scale of Deputy Controller (Finance & Account) 15600-39100-6600 grade pay (Minimum Initial Start of Rs.25200/-) as mentioned in Punjab Govt. Finance Department (FP-1 Branch) memo No.5/10/09-5FP-I/992-994

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dated 15.12.2011 for the Deputy Controller (F&A) working under Local Govt. Department.

2. *These orders will take effect from 15.12.2011 as per above memo of Finance Department (F P-1 Branch)."*

(Emphasis supplied)

6. A bare reading of order dated 26.10.2013 (Annexure P-7) demonstrates that the competent authority had consciously adopted the pay scale of Rs.15,600–39,100 with Grade Pay of Rs.6,600 for the post of Deputy Controller (F&A) working under the Local Government Department, in parity with the Finance Department. The said order, having been issued in exercise of delegated statutory powers and in the name of the Governor, carries binding force and continues to hold the field.

7. The contention of the respondents that there exists no post of Deputy Controller (F&A) in the Local Government Department and that the nomenclature was changed from Accounts Officer, is wholly untenable and contrary to the record, particularly in view of the promotion orders (Annexure P-2), which clearly establish the existence of such posts and appointments thereto by the competent authority.

8. Furthermore, the impugned order dated 26.09.2016 (Annexure P-5), which seeks to reduce the pay scale of the petitioners, has been passed without affording any opportunity of hearing to them, despite the fact that it

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adversely affects their vested rights. The same is thus violative of the principles of natural justice.

9. In addition, the respondents, having themselves adopted the higher pay scale vide Annexure P-7, cannot be permitted to resile from the said position without withdrawing the said order in accordance with law. The impugned action, therefore, amounts to an indirect nullification of a subsisting and binding order, which is impermissible in law.

10. Moreover, reliance can be placed upon the judgment passed in ***Sunder Lal Jain's case (supra)***. The relevant extract thereof may reads as under:-

*“In considered view of this Court, it is totally unreasonable to place a junior post and higher post in the same pay scale. A Division Bench of this Court in ***Hr Kishan and another Vs. State of Punjab and another, 1987(5) SLR 539, held that ‘when a lower post is equated with regard to pay scale with the promotional post, it was a clear anomaly and was highly irrational.****

*Another Division Bench of this Court in ***PL Goyal Vs. State of Haryana and others, 1990(5) SLR 108, held that ‘reducing the pay scale on promotion would be violative of Articles 14 and 16 of the Constitution of India.****

In CWP-10534-1991 (Mani Ram and others Vs. State of Haryana and others) 1993(1) SCT 419(P&HH) decided by me

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on September 20, 1993, it was held that ‘it was legitimate aspiration of every citizen to be better placed, both, in status and pay on promotion and if this is to be frustrated, it will obviously damper the growth of the man which is a natural desire of everyone.’

(Emphasis supplied)

11. Moreover, the impugned action results in placing the petitioners in the same pay scale as that of the feeder cadre, which is contrary to settled principles of service jurisprudence, as a promotional post must necessarily carry a higher pay scale than the feeder post.
12. Consequently, all the writ petitions are allowed and the impugned order dated 26.09.2016 (Annexure P-5) is hereby quashed, qua the petitioners.
13. The petitioners who are still in service shall continue to draw salary in terms of order dated 26.10.2013 (Annexure P-7) from the date of their respective promotions to the post of Deputy Controller (F&A).
14. The petitioners who have since retired shall be entitled to revision of their pay and pensionary benefits on the basis of the aforesaid pay scale, along with all consequential benefits.

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15. The respondents are directed to carry out the necessary exercise within a period of three months from the date of receipt of a certified copy of this order.

16. The Registry is directed to place a copy of this order on the files of the connected cases.

(HARPREET SINGH BRAR)
JUDGE

08.04.2026
Puneet Chawla

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No