



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-28184-2019

Reserved on : 12.01.2026

Pronounced on : 21.01.2026

Uploaded on : 21.01.2026

Des Raj

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by : Mr. Bikramjit Singh Patwalia, Advocate with
Mr. Gaurav Jagota, Advocate for the petitioner.

Mr. Swapan Shorey, DAG, Punjab.

NAMIT KUMAR, J.

1. The petitioner has invoked the writ jurisdiction of this Court by filing the present petition under Articles 226/227 of the Constitution of India, seeking a writ of certiorari for quashing the order dated 29.07.2019 (Annexure P-12), vide which the claim of the petitioner for grant of pay scale equivalent to the post of clerk i.e. Rs.10300-34800+3200 grade pay, with effect from 03.10.2011/15.12.2011 has been rejected. Further, a writ of mandamus has been sought for directing the respondents to grant the said pay scale, along with arrears in view of the decision of this Court in ***CWP No.488 of 2015 titled as 'Gurbir Singh and others v. Punjab and Haryana High Court and another', decided on 16.01.2015.***

2. The brief facts, as have been pleaded in the petition, are that the petitioner was initially appointed as a Peon in Punjab State Consumer Disputes Redressal Commission, Chandigarh (hereinafter

referred to as 'Commission') in the year 2002 and is now governed by the rules known as the Punjab State Consumer Disputes Redressal Commission (Appointment and Condition of Service) Rules, 2009 (hereinafter referred to as 'Rules') (Annexure P-1). In terms of the applicable Rules, further promotion from the post of Peon may be made to two cadres, namely, to the cadre of Clerk or to the Restorer. Relevant portion from the said Rules reads thus:-

S. No.	Designation of the Post	Method of appointment	Mode of appointment
xxx	xxx	xxx	xxx
10.	Clerks	15% by promotion from Restorer; and 15% by promotion from Group 'D' employees.	I) xxx II) xxx III) <u>By Promotion:</u> From Matriculate “Restorer” and “Group 'D' employees who have not crossed the age of 55 years”. They have to qualify English typewriting test at the speed of 30 W.P.M.
xxx	xxx	xxx	xxx

3. The petitioner was promoted to the post of Restorer, vide order dated 13.07.2005 (Annexure P-2) in the pay scale of Rs.3120-5160. It has further been pleaded that the pay scale of the posts of Clerks and Restorers has remained the same since the year 1986. However, an anomaly was created, with effect from 03.10.2011/15.12.2011, when the pay scale of Clerks was further revised from Rs.5910-20200+1900 grade pay to Rs.10300-34800+3200 grade pay, whereas the corresponding revision in the pay scale of Restorers was not carried out, and the Restorers were instead granted

the pay scale of Rs.5910-20200+2400 grade pay. A brief chart depicting the pay scales of both the posts since the year 1986 is as under:-

Sr. No.	W.E.F.	Pay Scale of Post Clerk	Pay Scale of Restorer
1.	1986	950-1800	950-1800
2.	01.01.1996	3120-5160	3120-5160
3.	01.01.2006	5910-20200+1900 G.P.	5910-20200+1900 G.P.
4.	5 th Pay Commission	5910-20200+1900 G.P.	5910-20200+1900 G.P.
5.	03.10.2011/15.12.2011	10300-34800+3200 Grade Pay	5910-20200+2400 Grade Pay

4. It is further pleaded that similarly situated persons like the present petitioner, who were working as Restorers in the Punjab and Haryana High Court were also affected and they immediately represented to the Hon'ble High Court to rectify the anomaly and for bringing the pay scale of the post of Restorers at par with that of Clerks. In pursuance to the said representation, given by Sh. Gurbir Singh and other Restorers, the Hon'be Punjab and Haryana High Court formed a Committee of the Hon'ble Judges and the said Committee recommended as under:-

“Item No.3: Representation dated 01.02.2012 from Sh.Gurbir Singh and other Restorers of this Court regarding rectification in anomaly in the pay scale of the applicants (i.e. Restorers).

It is shown to us from the record that as on 1.1.2006, the Clerks and the Restorers were in the same pay band and Grade Pay. In view of subsequent revision by the Government of Punjab vide notification dated 3.10.2011 and 15.12.2011, the pay band of the Clerks was revised to Rs.10300-34800. But the pay band of the Restorers was not revised. This has given rise to an anomalous situation which deserves to be rectified. The Committee, thus, after considering the matter recommends to the Government of Punjab to rectify the anomaly by granting to the Restorers

the pay band of Rs.10300-34800 with Grade Pay of Rs.3200/-.”

5. Since the said recommendations dated 08.11.2012 (Annexure P-3) were not implemented by the State Government, the aggrieved Restorers approached the High Court by filing ***CWP No.488 of 2015 titled as 'Gurbir Singh and others v. Punjab and Haryana High Court and another'***, and other connected petitions. The said writ petitions were allowed by this Court, vide judgement dated 16.01.2015 (Annexure P-4) by directing the respondents to grant the same pay scale as that of Clerks to the Restorers along with interest @ 12% per annum to all such persons who were deprived of the said pay scales. On the strength of the said judgement, the petitioner submitted a detailed representation dated 13.02.2015 (Annexure P-5) to respondent No.3-Commission and in pursuance to the said representation, respondent No.3, vide letter dated 13.10.2016 (Annexure P-6) sought the opinion of the office of the Advocate General, Punjab as to whether judgment dated 16.01.2015 would be applicable in the case of Restorers working in the Commission or not. Thereafter, a reminder dated 27.03.2017 (Annexure P-7) was issued to the office of Advocate General, Punjab, for seeking legal opinion. The office of Advocate General, vide legal opinion dated 02.08.2017 rendered the legal opinion and the same reads thus:-

“xxx xxx xxx xxx xxx

“After going through the record, I am of the opinion that the ratio of decision rendered in CWP 488/2015 and in CWP 22429/2014 is applicable in the case of Restorer in service with the Pb. State Consumer Redressal Commission. In the above writ petition, it clear from the record that initially, the pay scales of Clerks & Restorers were the same, but later on Clerks were placed in a higher pay scale. The Hon'ble High Court through

the above judgments restored pay parity between the two categories of employees. In the instant case, the situation is similar. If Clerks and Restorers has been getting same scales of pay in the post, there is no reason why parity in pay should not be restored. The orders rendered in the above CWPs are applicable to Restorer in the Pb. State Consumer Redressal Commission.”

xxx xxx xxx xxx xxx”

6. On the basis of the said legal opinion, the Commission recommended to the Department of Food, Civil Supplies and Consumer Affairs (Consumer Protection Act Branch), Punjab, to revise the pay scale of the post of Restorers of the Commission, vide letter dated 06.09.2017 (Annexure P-9), followed by a reminder dated 05.10.2018 (Annexure P-10) and since no action was taken by the respondents on the representation of the petitioner, he approached this Court by filing CWP No.15646 of 2019 (Des Raj v. State of Punjab and others), which was disposed of by this Court, vide order dated 31.05.2019 (Annexure P-11) with a direction to examine the matter and take a decision within a period of two months and in case any adverse order is passed, the same shall be conveyed to the concerned petitioner. In pursuance to the said order, the claim of the petitioner has been rejected by the respondents, vide order dated 29.07.2019 (Annexure P-12), which has been impugned in the present petition.

7. Separate written statements have been filed on behalf of respondent No.3-Commission and respondents No.1 and 2-State Government. The Commission has not opposed the claim of the petitioner for grant of higher pay scale, however, in the written statement filed on behalf of respondents No.1 and 2, it has been stated that the claim of the petitioner for grant of higher pay scale of Rs.10300-34800+3200 grade pay, has already been ordered to be

forwarded to the Sixth Punjab Pay Commission for its consideration and it has further been stated that there is a difference with regard to qualification, duties, functions, recruitment process, etc. of the post of Restorer of the Department of Food, Civil Supplies and Consumer Affairs, Punjab and the Hon'ble Punjab and Haryana High Court, Chandigarh, therefore, the petitioner is not entitled for the said pay scale.

8. Learned counsel for the petitioner submits that the case of the petitioner is squarely covered by the judgment of this Court in ***Gurbir Singh's case (supra)***, wherein a similar stand taken by the State Government, was considered, and the writ petition was allowed vide judgment dated 16.01.2015. He further submits that the employer of the petitioner i.e. Commission, after seeking legal opinion from the office of Advocate General, Punjab, recommended the case of the petitioner to respondent No.2 for grant of pay scale of Rs.10300-34800+3200 grade pay, however, the said claim has been rejected by the State Government without any justification and only by stating that the matter has already been ordered to be forwarded to the Sixth Punjab Pay Commission for its consideration.

9. *Per contra*, learned State counsel, while referring to the averments made in the written statement filed on behalf of respondents No.1 and 2, submits that the claim of the petitioner has already been considered by the Department of Food, Civil Supplies and Consumer Affairs, Punjab, vide impugned order 29.07.2019 (Annexure P-12) and has been ordered to be referred to the Sixth Punjab Pay Commission.

10. I have heard learned counsel for the parties and perused the

case file.

11. The facts are not in dispute that the petitioner joined the Commission as a Peon in the year 2002 and was promoted to the post of Restorer, vide order dated 13.07.2005 (Annexure P-2) in the pay scale of Rs.3120-5160. The pay scale applicable to the posts of Restorers and Clerks has remained the same since 1986 and the said parity has been disturbed only in the year 2011 when the pay scale of Clerks was revised and they were granted the pay scale of Rs.10300-34800+3200 grade pay, whereas the corresponding revision was not carried out in the pay scale of Restorers and they were instead granted the pay scale of Rs.5910-20200+2400 grade pay only. It is also not in dispute that a Peon can be promoted either to the post of Restorer or to the post of Clerk. Further, by virtue of the implementation of the revision of pay, similarly situated Restorers working in the Punjab and Haryana High Court were also affected thereby and were denied the said pay scale of Rs.10300-34800+3200 grade pay, therefore, they represented to the High Court to rectify the anomaly and to bring the pay of the post of Restorers at par with that of Clerks. On the basis of said representation submitted by them, a Committee of Hon'ble Judges was formed which recommended that the anomalous situation be rectified and the Restorers should be granted the pay scale of Rs.10300-34800+3200 grade pay, which was approved by Hon'ble the Chief Justice and the case was sent to the State Government. However, the State Government rejected the claim of the said Restorers of the High Court and the said decision was made subject matter of ***CWP No.488 of 2015 titled as 'Gurbir Singh and others v. Punjab and Haryana High Court and***

another', wherein this Court examined the said issue and held as under:-

“The State of Punjab has filed a reply by way of an affidavit of the Under Secretary of the Government of the Punjab, Department of Home affairs and Justice on behalf of the State of Punjab in connected CWP No.22429 of 2014. The defence of the State is that the nomenclature/designation of the posts are different which justifies separate Pay Scales and Pay Bands. It is well settled that the nomenclature of a post is not material to the determination of Pay Scales which depend on many factors including the duties and responsibilities attached to the post and if they have been found equivalent once by the State Government itself on 01.01.2006, then the equation is not open to be disturbed without just cause and legal justification.

Therefore, the defence of the State based as per its instructions dated 23.05.2012 (R-1) that the demands regarding enhancement of Pay Scales by employees-petitioners shall alone be considered by the next Punjab Pay Commission, is not justified and the same cannot be sustained being an erroneous view of the law on the subject of parity granted consciously to said posts earlier by the State Government in consultation with the Chief Justice.

xxx xxx xxx xxx xxx

For the reasons recorded above, these petitions are allowed. The impugned orders are set aside. The defence of the State in the impugned orders are quashed on certiorari issued. A mandamus is issued to the State of Punjab-respondent No.2 to give effect to the decision of the Chief Justice of this Court forthwith and steps be taken to act in the aid of the Chief Justice by restoring the status quo ante as on 1.1.2006 and the monetary benefits including difference of arrears of pay accruing there from be calculated and paid to the petitioners and non-party post holders within two months from the date of receipt of a certified copy of this order. It is directed that interest on arrears will run at the rate of 12 percent simple per annum till payment is made, since the petitioners and those who are likely to benefit have been deprived of use of money unjustly which was legally their due but was wrongfully withheld under colour of perverse orders/stand taken in defence which are nullified as a result of this order.”

12. The stand taken by the State Government in the said writ petition and in the present case is identical, which has been considered

and rejected in the said judgment. This Court also finds significance in the fact that the case of the petitioner was duly examined and recommended on two occasions by the respondent-Commission, which clearly demonstrates that the petitioner was found entitled to the relief claimed. In such circumstances, the continued denial of the same benefit to the petitioner, despite authoritative judicial pronouncement, legal opinion and repeated recommendations by the employer of the petitioner, cannot be sustained.

13. Further, the judgment in the case of *Gurbir Singh's case (supra)* has now become final and Restorers of the High Court have been granted the pay scale of Rs.10300-34800+3200 grade pay. The case of the petitioner is also squarely covered by the ratio laid down in the said judgment and consequently, the present writ petition is allowed and the impugned order dated 29.07.2019 (Annexure P-12) is set aside. The respondents are directed to grant pay scale of Rs.10300-34800+3200 grade pay to the petitioner with effect from 01.01.2006 at par with that of Clerks, with all consequential benefits, which shall be calculated and released to the petitioner within a period of three months from the date of receipt of certified copy of this order.

21.01.2026

Vinay

(NAMIT KUMAR)
JUDGE

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