



CWP-3928-2002 and connected cases

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

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Date of decision: 18.01.2025

CWP-3928-2002 (O&M)

Harnek Singh and others vs. State of Punjab and Others

CWP-11672-2013

Ranjit Singh Bagga and another vs. State of Punjab and Others

CWP-14007-2013 (O&M)

M.S. Hundal v/s State of Punjab and Others

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rajiv Atma Ram, Senior Advocate with
Ms. Shreya Kaushik, Advocate
for the petitioners in CWP-3928-2002.

Mr. M.S. Rana, Advocate for the petitioners in
CWP-11672-2013.

None for the petitioners in CWP-14007-2013.

Mr. Charanpreet Singh, AAG, Punjab.

AMAN CHAUDHARY, J. (ORAL)

1. These cases involve similar issues and therefore, are being disposed of together and for the sake of brevity, the facts are taken from CWP-3928-2002.

2. Prayer made in the present petition is for directing the respondents-State to grant the pay scale of Rs.7880-13,500/- with an initial start of Rs.8,000/- alongwith the four tier scale w.e.f. 01.01.1996.

3. The petitioners are/were working as Works Manager, few of whom as direct recruitees possessing the qualifications of Degree and few as promotees possessing matriculations and diploma, the requisite qualifications for the same, petitioner No.1 was further promoted to the



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post of General Manager while petitioner No.2 on the officiating basis. They were given parity vide notification dated 15.02.1990 with the Assistant Mechanical Engineers and Assistant Divisional Managers, in the scale of Rs.2200-4000/-. The recommendations of the 3rd Pay Commission were in favour of the petitioners, however, it is in the 4th Pay Commission that the parity came to be broken. The Director, State Transport, vide Annexure P-7, had proposed that the Works Managers be placed in the pay scale at par with the Sub Divisional Engineers in PWD, which was duly recommended by the Additional Secretary, Transport. Thereafter, the Sub Divisional Engineers were granted the higher 4th tier pay scale while that of the petitioners came to be rejected, the only Sub Divisional Engineers were placed in the scale of Rs.7880-13500 at entry level, Rs.10025-15100 after 8 years of regular service in the entry scale and Rs.14300-18150/- after 16 years of regular service in the entry scale, while that of the others would remain the same, including that of the Transport Department and Rural Development and Panchayats, vide report of the Anomalies Committee (Annexure P-9).

4. The Sub Divisional Engineers of the Department of the Rural Development and Panchayats, by way of CWP-17715-2007, titled as '**Dhiraj Goel and others vs. State of Punjab and others**, sought the parity with the Sub Divisional Engineers, PWD (B & R), who had been granted the aforesaid pay scale, which was allowed, vide judgment dated 11.05.2009, relevant portion thereof reads thus:

“I have heard learned counsel for the parties at length. It is also necessary to take note of the fact that the State



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Govt. has thereafter made recruitment of the Sub Divisional Engineers in the Department of Rural Development & Panchayat in the year 2000 vide order dated 31.3.2000 in the pay scale of Rs.7880-135600 with initial start at Rs.8000/-.

In view of the above circumstances, the contention of the respondents-State that such of the Sub Divisional Engineers, who are working in the Department of Rural Development & Panchayat are to be placed in a lower scale whereas the Sub Divisional Engineers, who are recruited in the year 2000 are entitled higher pay scale, is totally unwarranted and in contravention to mandate of Articles 14 & 16 of the Constitution. There cannot be a class within class. Once the entire cadre in all departments is placed in higher pay scale based upon the recommendations of the 4th Pay Commission and the recommendations have been accepted by the State and translated in to statutory rules, the petitioners cannot be discriminated against or given hostile treatment in the matter of grant of the pay scale.

In the totality of the circumstances, this petition is allowed. The impugned order dated 9.1.2009 ordering recovery from the petitioners is hereby quashed and it is directed that the petitioners shall be deemed to have been placed in the pay scale of Rs.7880- 13500 in accordance with the mandate of the pay revision rules as notified vide notification dated 19.5.1998. Needless to say that they will be entitled to the benefit of all the subsequent pay revision, if any.

5. The Assistant Mechanical Engineers of the Transport Department approached this Court by filing CWP-10823-2003, titled as **Sarabjit Singh Khokhar and others vs. State of Punjab and others**, claiming the pay scales as granted to SDO/SDE/AE in other departments, which was also allowed on 04.08.2010, relying on the judgment in **Dhiraj Goel(supra)**, relevant paras whereof read thus:

13. In my considered opinion, the essence of the issue raised in this petition has been considered in the judgment rendered in Dhiraj Goel's case (supra). The recruitment process, qualifications and nature of job of the SDES/SDOs and AEs working in various departments being the same; the 3rd Pay Commission having recommended the same pay scale to the petitioners as other Engineers holding the same posts in other department and the anomaly in implementation having



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been removed by virtue of order Annexure P-2 dated 15.02.1990, allowing revised pay scale to the petitioners viz. Rs.2,200-4,000/-; 4th Pay Commission recommendation having come to the effect that all categories of SDEs/AEs having same qualifications for recruitment be given revised pay scale applicable to these categories; the recommendation having been accepted by the respondent- State, I find no reason for the respondents to allow the anomalies to exist. Same being the issue before this Court in Dhiraj Goel's case (supra), in my opinion, the objections raised on behalf of respondents to be not tenable in law or facts.

14. The petition accordingly is allowed. The respondents accordingly are directed to consider the matter afresh so as to remove the anomalies by granting them pay scales given to persons working in other departments on the same post.”

6. The Assistant Divisional Managers, who were placed along with the petitioners in the Appendix ‘B’ to the Transport Commercial Wing (State Service Class-II) Rules, 1984, approached this Court by filing CWP-1308-2013, **Paramvir Singh and others vs. State of Punjab and others**, also claiming the higher pay scales equivalent to the Assistant Mechanical Engineers, which was allowed, vide judgment dated 08.07.2014, relevant portion whereof reads thus:

“The above said view taken by this Court also finds support from the judgments rendered by the Hon'ble Supreme Court and this Court in Purshottam Lal and others v. Union of India and another, (1973) 1 SCC 651; Haryana State Minor Irrigation Tubewells Corporation and others v. G.S.Uppal and others, 2008(7) SCC 375; G.K.Nagpal and others v. The Punjab State Electricity Board, Patiala, 1998(2) SLR 642 (DB) P & H; Dhiraj Goel and others v. State of Punjab and others passed in CWP No.17715 of 2007 decided on 11.5.2009; Darshan Singh etc v. The State of Punjab etc. (CWP No.13330 of 1994) decided on 15.5.2009 and R.K.Aggarwal and others Vs. State of Punjab (CWP No.2605 of 1998) decided on 2.7.2014.

The relevant observations made by the Hon'ble Supreme Court in paras 9, 10 and 17 of the judgment in Purshottam Lal's case (supra), read as under:-



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“The Research staff protested by letter dated October 18, 1962. They stated therein that "the revised pay scales of similar posts in other similar sister institutions (except F.R.I.) of this Institute under this very Ministry as well as other ministries have been implemented from 1st July, 1959 according to the 2nd Pay Commission recommendations accepted by the Government of India." They requested that the benefit of the retrospective date i.e. July 1, 1959 be given to them in accordance with the recommendations of the Pay Commission.

The Government replied on January 30, 1963 that "the revision of pay scales in respect of Research Assistants and Computers at this Institute has been done on the basis of the duties attached to these posts and not on the basis of the recommendations of the Pay Commission. In view of this the pay scale of Rs. 150-300 now given would have effect from the date of issue of the orders and pay fixation in this case has to be done under F.R. only."

xxx xxx xxx
xxx xxx xxx

In the result the petition is allowed and it is directed that the revised pay-scales of the petitioners will have effect from July 1, 1959, in accordance with the recommendations of the Pay Commission. We further direct that the petitioners should be paid the amount payable to them as a consequence of the revision of the pay-scales with effect from July, 1959. The petitioners will have the costs of this petition.

Similar issue fell for consideration before the Division Bench of this Court in G.K.Nagpal's case (supra) and it was held, as under:-

It is undoubtedly true that the posts of Laboratory Assistants are different from those of Line Superintendents etc. It is also correct that they carry different qualifications as well as different duties. However, the fact remains that all these posts had been treated as 'equal' initially. They were even treated as 'equal' even at the time of the revision of the pay scales. If at a subsequent stage they were to be treated differently, some reason should have been disclosed. The respondent-Board has not disclosed any reason in the written statement.



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This is in spite of the fact that various officers of the Board have repeatedly opined that the duties of the posts are analogous, the qualifications are similar and as such the plea for parity of treatment in the pay-scales should have been granted. Why the respondent-Board treated the appellants differently ? Neither in the written statement nor by any other document the reason has been disclosed in the Court. Even at the hearing, no one has appeared on behalf of the respondent-Board to justify this action.

We are conscious of the fact that a differential treatment in the matter of pay scales on the basis of educational qualifications and the nature of duties is permissible. However, it is equally clear to us that if two categories of employees are treated as equal initially, they should continue to be so treated unless a differential treatment is justified by some cogent reason. In a case where the nature of duties is drastically altered, a differential scale of pay may be justified. Similarly, if a higher qualification is prescribed for a particular post, a higher scale of pay may be granted. However, if the basic qualifications and the job requirements continue to be identical or as they were initially laid down, then the Court shall be slow to accept the action of the authority in according a differential treatment unless some good reason is disclosed. In the present case, the only reason pointed out in the written statement is based on the qualifications and the job requirements. There has been admittedly no change in either of the two parameters. That being so, no new ground for creating a classification was made out.”

Although, the financial burden has not been taken as a ground by the respondent-State in the written statement filed on its behalf, yet the said plea would not be available to the respondent-State in view of the law laid down by the Hon'ble Supreme Court in G.S.Uppal's case (supra). Further, the above-said report of Fourth Punjab Pay Commission came up for consideration of this Court in Dhiraj Goel's case (supra). It was also a case based on similar set of facts. After referring to recommendations made by the



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Fourth Punjab Pay Commission in para 39.1. and 39.40 of its report, this Court observed as under:-

“From the aforesaid recommendations, it is abundantly clear that the Fourth Pay Commission identified various common categories, which are said to be identical and based upon the mode of their recruitment, qualifications and other related factors. These categories are identified in para 39.2. Professional categories have also been incorporated, which include Sub Divisional Engineers irrespective of the department. Further in para 39.40 it is specifically mentioned that though the revised pay scales have been allocated to the PWD (B&R), however, the same pay scales have been recommended for other similar categories/departments. These recommendations were admittedly accepted by the State Govt. and consequently the statutory rules under Article 309 were notified namely the Punjab Civil Services (Revised Pay) Rules, 1998 issued vide notification No. 7/1/97-FP1/7370 dated 19.5.1998.”

Again, in Darshan Singh's case (supra), identical issue was considered by this Court. Writ petition was filed by the Surveyors of Irrigation Department. The writ petition was allowed vide order dated 15.5.2009. It was challenged by the respondent-State before a Division Bench of this Court vide LPA No.380 of 2010. The surveyors of Irrigation Department were claiming parity with the Surveyors of Soil Conservation Department, as in the present case, the petitioners are claiming parity with the Junior Engineers of Soil Conservation Department. While dismissing the LPAs filed by the respondent-State vide its order dated 18.3.2010, the Division Bench of this Court, held as under: -

“Learned Single Judge having observed that initially pay scale of the surveyors of both the departments was the same and even the 1st Pay Commission of Punjab Government recommended the same pay scale to the surveyors of both the Department and the Punjab Government granted same pay scale to the surveyors of both the departments as per the recommendations of the 1st Pay commission. Learned Single Judge further observed that



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surveyors in the Irrigation Department as well as in the Soil Conservation Department, Punjab are performing similar kind of duties and thus, they cannot be discriminated in the matter of pay scale and other allied benefits like Local Traveling Allowance. Learned Single Judge placed reliance on the judgement of the Apex Court in the Employees of Tannery and Footwear Corporation of India Ltd. and another Vs. Union of India and others, 1991(2) SLR 131 and also on the judgement of a Division Bench of this Court in Haryana State Biologists Association Vs. State of Haryana, 1994(4) TSJ 44.”

The above-said order passed by the Division Bench in Darshan Singh's case (supra) was challenged by the respondent-State before the Hon'ble Supreme Court but SLP No. 1648 of 2010 came to be dismissed vide order dated 8.7.2010.

Reverting back to the fact situation of the present case and respectfully following the law laid down by the Hon'ble Supreme Court as well as Division Bench of this Court, it is held that the impugned order is patently illegal and the same cannot be sustained.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present writ petition deserves to be allowed and the same is hereby allowed. The impugned action taken by respondent No.2, while passing the impugned order dated 4.1.2013 (Annexure P-4), is hereby declared illegal and the same is set aside. Petitioners are held entitled for parity with Assistant Mechanical Engineers in the matter of pay scales. Respondents are directed to grant same pay scales to the petitioners, which have been granted to the Assistant Mechanical Engineers, with all consequential benefits, including re-fixation of their pay and arrears of salary. The respondent administrative department is directed to complete this exercise within a period of three months from the date of receipt of certified copy of this order.

Resultantly, instant writ petition stands allowed, however, with no order as to costs.”



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7. Thereafter, the Director, State Transport, vide communication dated 30.09.2011, while relying on the judgment in CWP-10823-2003, **Sarabjit Singh Khokhar** (supra), recommended the case of the petitioners and others for pay parity, which reads thus:

“In this manner after considering the service rules of the above posts and the promotional pay scales of these posts, it is recommended that the proposed pay scales be granted to them so that the anomaly in comparison to the pay scales granted to Assistant Mechanical Engineers by the Hon’ble High Court can be removed. Apart from this, the officers of this category are liable to be given placement by giving promotional pay scales after completion of 4, 9 and 14 years of service as in the case of Assistant Mechanical Engineers.”

8. In the reply to CM-12916-2015, the Special Secretary to Govt. of Punjab, Department of Transport, has specifically stated that judgment passed in CWP-1308-2023 seems to be partly covered in terms of the direct recruitment in the case of Works Managers.

9. Learned Senior Counsel submits that once the aforesaid conclusion has been already arrived at the cadre of Works Managers being one and the same, irrespective of the method of appointment to the said post be a direct or a promote, who fulfils the qualifications as per rules and becomes part thereof, would be entitled to the same.

10. The parity once granted in the pay scale cannot be undone without any reason, which as is apparent from Annexure P-8, were not assigned, regarding which reliance is placed also on **S.K.Yadav and others vs. State of Haryana and others**, CWP-4216-2001, decided on 09.07.2002.



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11. Learned State counsel, despite best efforts, having not been able to controvert regards the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law, the present petition is accordingly, disposed of in terms of **Sarabjit Singh Khokhar** (supra).

18.01.2025
parveen kumar

(AMAN CHAUDHARY)
JUDGE

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