



CWP-8531-2000

**202 IN THE PUNJAB AND HARYANA HIGH COURT AT  
CHANDIGARH**

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Date of Decision: 22.05.2025

Raj Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

Present: Mr. Sandeep K. Sharma, Advocate with  
Mr. Utsav Sharma, Advocate  
for the petitioner.

Mr. Rahul Dev, Addl. AG, Haryana.

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**VINOD S. BHARDWAJ, J. (ORAL)**

In compliance of the order dated 01.04.2025, learned counsel for the petitioner has produced a receipt of deposit of costs of Rs.2,500/- with the Social Welfare Fund Committee of Bar Clerks Association, Punjab and Haryana High Court, Chandigarh, which is taken on record.

**Main case**

Challenging the order No.715/4-A dated 19.02.1999 whereby the office order No.2815/4-A dated 04.08.1998 has been withdrawn and the pay of the petitioner herein has been fixed as per the previous order No.273/4-A dated 02.02.1998, the instant writ petition has been filed.

2. Learned counsel for the petitioner contends that the petitioner initially joined as Diesel Pump Operator in February, 1975, on work charged basis, with the respondent-Department. He was later made Special Operator w.e.f. 01.05.1977 and his services were regularized on 28.11.1983 as Heavy Duty Operator. He further submits that the State Government revised the pay scales of various categories of its employees working on regular basis



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w.e.f. 01.04.1979, however, the pay scales of work charged employees was not revised which was a subject matter of dispute in proceedings fixed before this Court. They were eventually regularised w.e.f. 01.04.1982. Eventually, this Court ordered that even the work charged employees are also entitled to revision of pay scales w.e.f. 01.04.1979 instead of 01.04.1982. The aforesaid judgment was challenged by the State Government in Letters Patent Appeal and thereafter in a Special Leave Petition before Hon'ble Supreme Court, however, both were dismissed by the Division Bench as well as by the Hon'ble Supreme Court respectively.

In compliance of the judgment, the State Government directed in the year 1994 that the pay scale of work charged employees be released w.e.f. 01.04.1979 instead of 01.04.1982. He contends that pay of other operators namely Ram Phal s/o Bhim Singh and Jaswant Singh s/o Jai Singh were also fixed w.e.f. 01.04.1979 instead of 01.04.1982. Both the said persons were claimed to be juniors to the petitioner. A seniority list of operators working under the Department as on 31.07.1998 in Delhi Circle was prepared wherein the petitioner was at serial No.7 while said Ram Phal and Jaswant Singh were at serial No.14 and 19 respectively. He contends that when pay fixation of various employees was done w.e.f. 01.04.1979, the pay of above-said junior persons namely Ram Phal and Jaswant Singh was fixed on the higher side, however, both of them were juniors to the petitioner and were even regularised four years later than the petitioner. Accordingly, the petitioner approached the respondent-Department for removing the pay anomaly and to fix his pay at par with said Ram Phal and Jaswant Singh. Thus, vide order dated 04.08.1998, the pay of the petitioner was fixed at par with Jaswant Singh, Operator. He submits that notwithstanding the said pay fixation, the respondent-Department passed the impugned order dated



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19.02.1999 withdrawing the order of re-fixation of the pay dated 04.08.1998.

Aggrieved of the said order of reduction of his pay, the petitioner submitted a representation to the concerned Executive Engineer and requested for re-examining the issue but as the needful was not done, CWP No.3135 of 1999 was filed before this Court. The same was disposed of by the Division Bench of this Court with liberty to the petitioner to approach the appropriate forum only after some reasonable time had elapsed. The petitioner thereafter pursued his case with the respondent authorities, however, vide letter dated 20.05.1999, the claim of the petitioner was declined by the Executive Engineer. The petitioner again submitted a representation, which was received by the respondent-Department vide Diary No.1052 dated 15.06.1999 in the office of Executive Engineer, Sonapat Water Service Division, Sonapat. Vide letter dated 05.07.1999 and 14.07.1999, the respondent-Department reiterated the stand taken by it on 20.05.1999, hence, the present petition.

Learned counsel contends that the earlier revision of the pay scale w.e.f. 01.04.1979 instead of 01.04.1982 granted to the petitioner establishes that he was entitled to fixation of his pay at par with the juniors and subsequent order of withdrawal of said pay scale, was incorrect and unsustainable.

3. Counsel contends that the pay of the petitioner has been reduced solely on the ground that the post held by the petitioner as well as said Jaswant Singh, Operator are different and therefore, their pay scales cannot be compared. He submits that the said reason as foundation of the impugned order is contrary to the record as there are a number of designations of Operators such as Diesel Machine Operator, Heavy Machine Operator, Heavy Duty Operator etc. The said Jaswant Singh was regularised



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as Operator while petitioner was regularized as Heavy Duty Operator. Hence, it cannot be said that petitioner and said Jaswant Singh were working on non-comparable posts for pay fixation. He submits that the cadre of all the operators irrespective of nature of job performed by them is same and next higher promotion from all these operators is to the post of Chageman. Counsel further contended that Jaswant Singh was an illiterate and was working on the same post as that of the petitioner and as such, even Jaswant Singh did not possess qualification of matriculation with ITI. Learned counsel argues with vehemence that the withdrawal of the earlier order of pay fixation was in violation of principles of natural justice and notwithstanding the similarity of the duties performed by the petitioner vis-à-vis Jaswant Singh.

4. Counsel for the respondents, on the other hand, submits that the pay of the petitioner was fixed vide office order No.2815/4-A dated 04.08.1998 by making comparison with the pay of Jaswant Singh who was engaged as a Dozer Operator. He submits that one Rameshwer Dass, who was also Pump Operator, represented that his pay may also be fixed equal to the pay of Raj Singh, Operator/Jaswant Singh, Dozer Operator, who are junior to him. After fixing the pay of Rameshwer Dass, Pump Operator at par with the pay of Jaswant Singh/Raj Singh, Pump Operator, the case was forwarded to the Accounts Officer, Irrigation Department, Canal Colony, Karnal for further verification. The same was, however, returned vide memo No.862/E-5 dated 14.12.1998 with an observation that the comparison does not appear to be in order as both the posts are different and nature of work performed by them are also different. Thereafter, the pay fixation case of the petitioner Raj Singh, Pump Operator, as fixed by the office on 04.08.1998, was submitted again to Accounts Officer, Karnal along with memo No.134/4-A dated 13.01.1999 for seeking a clarification as to whether the pay fixed by

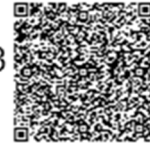


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office vide order dated 04.08.1998 of Raj Singh, Operator was correct or not. The Accounts Officer vide memo No.154/E-5 dated 18.02.1999 intimated that the pay of the Operator be fixed according to CWP No.1804/1996. The pay was accordingly redetermined and reduced since the pay of Raj Singh, Pump Operator was not fixed in order.

Counsel further contends that the petitioner was undisputedly appointed as Workcharged Operator in the pay scale of Rs.60-3-90 w.e.f. 05.02.1975 and remained as Workcharged Operator till his regularisation of service w.e.f. 28.11.1983. However, the petitioner was promoted as Workcharged Special Operator w.e.f. 01.05.1977 in the scale of Rs.90-3-120 and as per his Service Book, he remained as Special Operator in J.L.N. Mechanical Division, Rohtak only and after his transfer to Drainage Division, his services were verified as Operator in the pay scale of Rs.90-3-120. He also averred that all the entries in Service Book are made in work-charged capacity. A specific stand has been taken by the respondents that the petitioner claiming parity with his junior Jaswant Singh and Ram Phal is incorrect as Jaswant Singh s/o Jai Singh was Dozer Operator and that comparison of the post of Pump Operator and Dozer Operator is not correct.

5. It is pointed out that the petitioner was later granted pay scale of Rs.400-600 and was not entitled to pay scale of Rs.480-760 since he was not even matriculate and pay scale of Rs.480-760 was to be granted to Technical employees, who possessed matriculation qualification plus two year Certificate from the Technical Trade from recognized ITI. Since the petitioner did not possess the prescribed educational qualifications, the pay scale was rightly revised as per government instructions. He avers that the pay scale granted erroneously cannot be held to entitle the petitioner to claim the said pay scale.



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6. No other argument has been advanced by counsel for the parties and no judgment has been cited.

7. It is also noticed that when the matter came up for hearing on 11.07.2022, this Court passed an interim order directing the respondent-authorities to file an affidavit as to whether the 'Dozer Operator' is from the same cadre as the petitioner and whether he is senior to the petitioner for being appointed on the post of Dozer Operator, which entitled him for higher pay.

8. In response thereto, a short reply by way of an affidavit was filed on behalf of R.K.Bodwal, Superintending Engineer, Yamuna Water Services Circle, Sonipat. The relevant extract of the short reply by way of an affidavit reads as under:

*“3. That the services of Workmen Cadre is governed by Haryana Irrigation Department, Circle Cadre, Workmen Establishment Group-C Service Rules, 2011, as per Appexdix-C, Rule-14(I), Superintending Engineer is appointing authority.*

*4. That the Dozer Operator and Pump Operator are not the same cadre post as the post of Dozer Operator in scale of 140-6-170/8-210 and now FPL-4 as per 7<sup>th</sup> pay commission. The post of Pump Operator in scale of 90-3-120 and now FPL-2 as per 7<sup>th</sup> pay commission. Moreover, the post of Dozer Operator is higher grade post in comparison of Pump Operator.”*

9. However, noticing there were certain ambiguities, a further additional affidavit dated 12.01.2023 was filed, as directed by this Court, by R.K.Bodwal, Superintending Engineer, Yamuna Water Services Circle, Sonipat. Scale chart of pay drawn at various stages by the petitioner and Jaswant Singh, Dozer Operator against whom the pay parity and step up was being sought for by the petitioner had also been furnished before this Court. The relevant extract of the said affidavit reads thus:



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“3. That the particulars alongwith pay drawn at various stages by the petitioner and Sh.Jaswant Singh, Dozer Operator, whom the step up of pay was sought, are tabulated below for kind perusal of this Hon'ble High Court:

### 1. Raj Singh (Petitioner)

Date	Post	Pay Scale	Pay fixed
05.02.1975	Operator Work-Charge	60-3-90	Rs.60/-
01.05.1977	Special Operator Work-Charge	90-3-120	Rs.90/-
01.04.1978	Special Operator Work-Charge	130-5-250	Rs.134/-
01.05.1983	Special Operator Work-Charge	400-600	Rs.540/-
28.11.1983	Heavy Operator Regular	400-600	Rs.540/-
01.01.1986	Pump Operator Regular	950-1400	Rs.1275/-
01.05.1990	Pump Operator Regular	1200-2040	Rs.1410/-

### 2. Jaswant Singh (Dozer Operator)

Date	Post	Pay Scale	Pay fixed
01.06.1978	Dozer Operator Work-Charge	140-6-210	Rs.140/-
01.06.1982	Dozer Operator Work-Charge	480-760	Rs.510/-
01.01.1986	Dozer Operator Work-Charge	1200-2040	Rs.1260/-
01.01.1987	Dozer Operator Regular	1200-2040	Rs.1290/-
01.05.1990	Dozer Operator Regular	1200-2040	Rs.1380/-

The above tabulated description clearly shows that the petitioner has never been drawn the pay at par or equal to Sh.Jaswant Singh, Dozer Operator. The petitioner was appointed in a lower pay scale as Operator/Special Operator and his services were utilized on Pump Houses for operating the pump sets. Whereas, Sh.Jaswant Singh was appointed in higher pay scale as Dozer Operator and his services were utilized on Dozer Machine which is a machine used in compaction of Earth Work during the construction of canal and channels. The work and responsibilities of both posts were very much different, hence, cannot be compared in any manner. Moreover, the petitioner was granted the pay scale of Rs. 1200-2040 w.e.f. 01.05.1990 by virtue of Hon'ble High Court order dated 03.06.2011 passed in CWP No. 21769 of 2010-Raj Singh and others V/s State of Haryana and others and his pay was fixed at higher stage than to Sh. Jaswant Singh,



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*Dozer Operator w.e.f. 01.05.1990. The pay of petitioner was fixed at the stage of Rs. 1410/- in the pay scale of Rs. 1200-2040/- and the pay of Sh. Jaswant Singh was Rs.1380/- in the pay scale of Rs. 1200-2040/- as on 01.05.1990. Hence, there was no occasion at any point of time to step up the pay of the petitioner.*

4. *That as regarding issuance of seniority list of technical staff working in YWS Circle, Delhi as on 31.07.1998, it is very respectfully submitted that all the Operators, who runs any kind of machine, which involved Motor effect, have been assigned a Serial number according to their date of appointment. It is not for the purpose of granting benefit of promotion or stepping up of pay to any of the employee whose name appeared in the list because there are so many criteria's for drawing pay scale by Workmen category. The education, nature of work, technical proficiency etc of the Workmen were the major conditions for fixing their pay because at that time service rules of these categories have not been framed. The services of Workmen category were regulated through Executive instructions and provisions of PWD Code.*

5. *That the petitioner was also claiming stepping up of pay against Sh. Ram Phal, Pump Operator. The pay drawn by Sh. Ram Phal, Pump Operator is tabulated below for kind perusal of this Hon'ble High Court:-*

**Ram Phal, Pump Operator**

<b>Date</b>	<b>Post</b>	<b>Pay Scale</b>	<b>Pay fixed</b>
06.11.1980	Pump Operator Work-Charge	110-225	Rs.110/-
01.04.1982	Pump Operator Work-Charge	480-760	Rs.495/-
01.01.1986	Pump Operator Work-Charge	1200-2040	Rs. 1200/-
14.01.1987	Pump Operator Regular	1200-2040	Rs. 1230/-
01.05.1990	Pump Operator Regular	1200-2040	Rs. 1320/-

*The above table clearly depicted that Sh. Ram Phal was drawing lesser pay than to the petitioner at every stage of his career. Though, he was drawing higher pay scale of Rs.480-760 w.e.f. 01.04.1982 and Rs.1200-2040 w.e.f. 01.01.1986 than the petitioner. The higher pay scale was granted to Sh. Ram Phal, Pump Operator in view of Govt. notification dated 30.03.1982 because he was having matric and two years diploma in ITI. whereas the petitioner has no such qualification. It is pertinent to mention here that Sh. Ram Phal, Pump Operator was retired from Govt. service on dated*



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*30.09.2010 and the last pay drawn by him was Rs.14780+3300= Rs.18080/- whereas the petitioner on 01.07.2010 drawing the pay at the stage of Rs. 15860+3300 = Rs.19,160/-, which is much higher than to Sh. Ram Phal and Sh.Jaswant Singh, Dozer Operator. Sh. Jaswant Singh, Dozer Operator was also drawing lesser pay than to the petitioner as on 01.07.2010 at the stage of Rs.15430+3300 = Rs.18,730/-. Thus, no comparison for stepping up of pay is required.*

*6. That the promotional avenue to the petitioner and Sh.Ram Phal, Pump Operator was Charge-man, Assistant Foreman and Foreman in hierarchy, whereas Sh.Jaswant Singh, Dozer Operator has no promotional avenue as his post is regarded as heavy duty vehicle driver and no further promotion is available to heavy duty vehicle driver in hierarchy. The petitioner has got promotion upto the post of Assistant Foreman and Sh. Ram Phal was retired as Pump Operator. In this way also the petitioner is always on better footing than the Sh. Jaswant Singh, Dozer Operator and Sh. Ram Phal, Pump Operator.”*

10. In response to short affidavit and additional affidavit filed by the respondents-authorities, no counter affidavit or response has been filed by the petitioner, hence, the averments raised in the said affidavit(s) remain uncontroverted.

11. It is evident from the perusal of the additional affidavit that the pay of Jaswant Singh, Dozer Operator was consistently higher than the petitioner. The pay of Ram Phal was also lower than the petitioner. The specific stand of the respondents that both the posts were different, and their seniority was maintained separately, has not been countered by the petitioner.

12. Having heard learned counsel appearing on behalf of the parties and having gone through the documents pertaining to the present petition, it is uncontroverted that the pay scale of the petitioner was enhanced vide office order dated 04.08.1998 by accepting the representation submitted by the petitioner that the pay scale of Jaswant Singh and Ram Phal was higher



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even though they were juniors to him. However, when the anomaly was noticed and it was found that Jaswant Singh was a Dozer Operator whereas Ramphal was working as Pump Operator and that they were already working at different pay scales and also that a separate cadre and seniority are being maintained for respective Operators and that the claim of the petitioner about Jaswant Singh and Ram Phal, being his juniors, was wrongly considered, hence, the earlier order dated 04.08.1998 whereby the pay of the petitioner was stepped up with that of Jaswant Singh and Ram Phal(supra) was withdrawn. Ram Phal is established to be drawing lesser salary. Since the specific averments contained in the written statement, affidavit as well as the additional affidavit, showing the disparity in the cadre as also their pay right from the very inception, have not been disputed and countered, this Court has no reason to believe that the cadre of the petitioner was same as that of said Jaswant Singh.

13. The respondents have been able to prima facie establish their case that the petitioner and said Jaswant Singh worked in different cadres under different pay scales from the very inception. Hence, the order of the respondent-department in stepping up the pay scale, by treating the persons working in different cadre as juniors to the petitioner, was clearly borne out of a mistake. There is no prohibition against the respondent-authorities for rectifying their mistake. The restriction, if any, is only against effecting recovery with respect to the benefits already given by the respondent-department on their own volition without there being any concealment of information on the part of the petitioner.

14. As no such illegality, perversity or impropriety in the order has been pointed out by the petitioner either through the pleadings or during the



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course of arguments, I find no reasons to disagree with the order passed by the respondents. Accordingly, the present petition stands dismissed.

May 22. 2025  
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**(VINOD S. BHARDWAJ)**  
**JUDGE**

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