



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

122

CWP-4681-2025

Date of Decision:19.02.2025

SUKHBIR SHARMA AND OTHERS

...Petitioner(s)

Versus

STATE OF HARYANA AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Ranjit Singh Kalra, Advocate with
Ms. Mona Yadav, Advocate for the petitioners.

TRIBHUVAN DAHIYA, J. (Oral)

The petition has been filed seeking a writ of *mandamus* directing the respondents to grant the benefit of higher pay scales to the petitioners with effect from the date of joining in the cadre of Art and Craft (Drawing Teachers), i.e., 01.01.1996, on the lines benefit of higher pay scales has been given to Physical Training Instructors (PTIs) in the Department.

2. Facts relevant to decide the matter are, the petitioners were appointed as Art and Craft Teachers in the Department from 1968 to 2004, as per details given in para 10 of the petition. Their services were governed under the Haryana State Education School Cadre (Group-C) Service Rules, 1998 (for short, 'the 1998 Rules'). It is claimed that Art and Craft Teachers and PTIs are a part of C and V cadre under these Rules, and as per pay scales incorporated in appendix A to D both were placed in similar pay scale of ₹4500-7000 with effect from 01.01.1996, and ₹9300-34800+4200 with effect from 01.01.2006. As per qualifications for the posts mentioned in appendix B, Art and Craft Teachers are required to possess higher qualifications which



include B.A. with Art as one of the compulsory subjects and two years Diploma in Art and Craft from a recognised University; whereas, PTIs are only required to possess the qualification of certificate in Physical Education conducted by the Haryana Education Department or an equivalent qualification. The qualifications being higher, the Art and Craft Teachers were given three additional increments.

2.1. The 1998 Rules were later repealed and replaced by the Haryana School Education (Group C) State Cadre Service Rules, 2012, whereby C and V cadre, which included PTIs and Art and Craft Teachers under the old Rules, was converted to Trained Graduate Teachers (TGTs) in their relevant subjects. It was also decided that no further recruitment shall be made to these categories of posts when the present incumbents vacate the same on promotion/retirement or for any other purpose.

2.2. PTIs in the Department filed a writ petition before this Court claiming higher pay scales and parity with the scales given to PTIs (National Fitness Corps) (for short, 'PTIs/NFC'), who were originally appointed under a Scheme of the Government of India. After the Scheme was wound up, the Government of Haryana decided to induct them in regular cadre of PTIs. Since they were in a higher scale of pay, PTIs in the Department preferred a petition, CWP-11738-1988 titled *Ram Kishan Ahlawat and others v. State of Haryana and others*, which was allowed vide judgment dated 18.01.1995 holding that PTIs were entitled to pay parity with PTIs/NFC.

2.3. However, the higher pay scales granted to PTIs/NFC were withdrawn by the Government. This led to filing of another petition, CWP-5816-1994 titled *National Fitness Corps Teachers Association v. State of*



Haryana and others, which was decided vide judgment dated 10.10.2007, holding that withdrawal of higher pay scales granted to PTIs/NFC was illegal, and they were entitled to the same with effect from 01.07.1976.

2.4. Once the pay scale was restored to PTIs/NFC, PTIs were also required to be extended the same higher pay scales to bring them at par with the former in the cadre.

2.5. In another matter, CWP-2071-1986 titled *Om Parkash and others v. State of Haryana and another*, also PTIs were held entitled to higher pay scales as granted to PTIs/NFC. The decision was upheld in appeal by the Division Bench.

2.6. Various contempt petitions were filed seeking compliance of the directions issued in *Ram Kishan Ahlawat* case, *National Fitness Corps Teachers Association* case and *Om Parkash* case. Finally, the respondents vide office orders dated 02.11.2016 and 03.08.2023, granted revised pay scales to PTIs/NFC in the cadre of PTIs. These office orders read as under:

Order No.1/5-2013 CCA(I)

Dated:02.11.2016

In compliance of order dated 08.09.2016 passed by Hon'ble High Court in COCP No.1153 of 2013 titled as National Fitness Corps Teachers Association Vs. Surina Rajan and others and in partial modification of order No.1/5-2013 CCA(I) dated 05.11.2013, subsequent order dated 07.09.2016, the petitioners are hereby granted the benefit of revision of pay scale to the PTIs(NFC) and DPE(NFC) working under the State Government, since July, 1976. The pay scales are given as under:-

Sr. No.	Designation	Revision as on July, 1976	As on 01.04.1979	As on 01.01.1986	As on 01.01.1996
1.	DPE(NFC)	Rs.400-800	Rs.700-1200	Rs.1640-2900	Rs.6500-9900
2.	PTI (NFC)	Rs.220-400	Rs.525-1050	Rs.1400-2600	Rs.5500-9000



However, the above said benefit to the petitioners be given to personam subject to the final outcome of SLP will be filed Finance department has also given concurrence vide UO No.6/92-2013/4PR letter F1) dated 27.10.2016.

Order No.17/79-2022 TGT R&A(3) Dated:03.08.2023

In compliance of COCP No.2094 of 2013 in CWP No.1251 of 1990 titled as Madan Mohan and others Vs. Surina Rajan, IAS and COCP No.2045 of 2013 in CWP No.2070 of 1986 titled as Om Parkash and others Versus Surina Rajan, IAS and other connected COCPs. Petitioner PTIs and other similar PTIs are hereby granted the benefit of pay scale according to Sr.No.2 given as under:-

Sr. No.	Designation	Revision as on July, 1976	As on 01.04.1979	As on 01.01.1986	As on 01.01.1996
1.	DPE (NFC)	Rs.400-800	Rs.700-1200	Rs.1640-2900	Rs.6500-9900
2.	PTI (NFC)	Rs.220-400	Rs.525-1050	Rs.1400-2600	Rs.5500-9000

Finance Department has also given concurrence vide U.O. No.50/1/2023-1FDII/7089 dated 21.07.2023.

2.7 After the aforesaid office orders, the benefit of revised pay scales was extended to PTIs as well, vide office order dated 03.08.2023, Annexure P-10, the same reads as under:

Order No.17/79-2022 TGT R&A(3) Dated:03.08.2023

In compliance of COCP No.2094 of 2013 in CWP No.1251 of 1990 titled as Madan Mohan and others Vs. Surina Rajan, IAS and COCP No.2045 of 2013 in CWP No.2071 of 1986 titled as Om Parkash and others Versus Surina Rajan, IAS and other connected COCPs. Petitioner PTIs and other similar PTIs are hereby granted the benefit of pay scale given as under:-

Sr. No.	Designation	Revision as on July, 1976	As on 01.04.1979	As on 01.01.1986	As on 01.01.1996
1.	PTI	Rs.220-400	Rs.525-1050	Rs.1400-2600	Rs.5500-9000



Finance Department has also given concurrence vide U.O. No.50/1/2023-1FDII/7089 dated 21.07.2023.

3. Learned counsel has contended that the petitioners are also similarly placed as PTIs as they were appointed as Art and Craft Teachers between 1968 to 2004, and possess higher qualifications as compared to the PTIs. They had always been drawing higher pay scales as compared to the PTIs by way of three additional increments. Therefore, by virtue of revision of pay scales of PTIs, vide office order dated 03.08.2023, they cannot be placed in a lower pay scale *vis-à-vis* PTIs. Being in the same cadre, they are entitled to the higher/revised pay scales as given to the PTIs. The disparity needs to be removed by increasing their pay scales to the level of scales given to PTIs with effect from 01.07.1976.

4. Heard.

5. As per the facts apparent on record, the petitioners joined service as Art and Craft Teachers in the Department, and their services were governed under the 1998 Rules; so was the case with PTIs working in the Department. The requisite qualifications for the two posts were different. Although they had been placed in the same pay scales, the Art and Craft Teachers had been given three additional increments based upon their higher qualifications. There has been a protracted litigation between PTIs/PTIs(NFC) and the Department. The two being part of the same cadre and performing similar duties, were given parity of pay scales by this Court vide judgments rendered in *Ram Kishan Ahlawat* case, *National Fitness Corps Teachers Association* case and *Om Parkash* case. Pursuant thereto, the Department vide office orders dated 02.11.2016 and 03.08.2023, released the benefits of higher scales



to PTIs/NFC as a personal measure. As a consequence and in terms of the directions issued by this Court in the judgments aforementioned, vide office order dated 03.08.2023, pay scales of PTIs were brought at par with those of PTIs/NFC with effect from 01.07.1976. Grant of these scales to the PTIs cannot be a basis for the petitioners to claim parity therewith. It was in entirely different circumstances, viz., absorption of PTIs/NFC in the existing cadre of PTIs, and following the principle of 'equal pay for equal work', this Court held them entitled to the same pay scales. It is apt to refer to the observations of this Court in CWP-11738-1988 titled *Ram Kishan Ahlawat and others v. State of Haryana and others*, in this regard, which are as follows:

Thus, what is required to be seen by the employer while fixing the pay-scale of persons belonging to one or similar cadre is the similarity of qualifications and qualitative as well as quantitative similarity in the nature of duties. A broad view is to be taken by the employer of the nature of duties required to be performed by the employees and a scientific and mathematical similarity in the nature of duties is not necessary for applying the principle of "equal pay for equal work".

In view of the above, it must be held that there is no justification for making any discrimination between the Physical Training Instructors of the department qua others, who are designated as Physical Training Instructors (NFC) or who are given similar other designations. While the petitioners have specifically pleaded that qualifications prescribed for the two posts as well as the nature of duties being performed by the holders of such posts are similar, respondents have simply made a bald statement that there is a difference in the method of recruitment of the employees belonging to the two cadres and that there is difference in the nature of duties. This, in my



opinion, is not sufficient to justify the disparity of pay scales. Being employer of the petitioners, the respondents are in possession of the material on the basis of which they could show difference in the nature of duties required to be performed by the petitioners on the one hand and the Physical Training Instructors (NFC) on the other hand and as the respondents have not done that, it is reasonable to accept the petitioners' assertion regarding the nature of their duties vis-a-vis other Physical Training Instructors and that they have been denied the benefit of the principle of "equal pay for equal work" without any reason or rhyme.

However, the aforesaid conclusion cannot automatically result in the issue of a direction to the respondents to give benefit of the pay scale of Rs.1400-2600 to the petitioners straightaway. Learned Assistant Advocate General has brought to the notice of the Court that the State Government has already taken note of the mistake allegedly committed in the grant of grade of Rs. 1400-2600 to the Physical Training Instructors (NFC). She submitted that if the Government finally decides to give pay scale of Rs.1200-2040 to the Physical Training Instructors (NFC), the very basis of the claim made by the petitioners for grant of salary in the pay scale of Rs.1400-2600 would disappear. This submission of the learned Assistant Advocate General merits consideration. From the record of this case it is clear that the sole basis of the claim made by the petitioners lied in the fact that the Physical Training Instructors (NFC) have been given higher grade of Rs.1400-2600. Therefore, if the Government finally takes the view that the Physical Training Instructors (NFC) are not entitled to the grant of higher pay scale, the very foundation of the claim made by the petitioners would disappear and in that eventuality, they will not be entitled to the benefit of grade of Rs.1400-2600.

In view of the above discussion, the writ petitions are allowed. It is declared that the petitioners, who are doing duties



similar to the duties being performed by the Physical Training Instructors (NFC), are entitled to be treated at par with them in the matter of pay scales. The respondent-Government is directed to examine the entire issue relating to the claim of the petitioners to the grant of pay scale of Rs.1400-2600 afresh. This consideration must be done within a period of three months of the receipt of certified copy of this order. If the Government ultimately upholds the claim of the Physical Training Instructors (NFC) to the grant of the grade of Rs.1400-2600, benefit of that grade will have to be extended to the petitioners and other similarly situated Physical Training Instructors. If, on the other hand, the Government takes the view that the Physical Training Instructors (NFC) are not entitled to the grade of Rs.1400-2600, such benefit shall not be admissible to the petitioners as well. It is further made clear that if on the basis of any Court order, the Physical Training Instructors (NFC) are given the benefit of pay scale of Rs.1400-2600, then also the Government shall have to extend such benefit to the petitioners and other similarly situated persons. Costs made easy.

6. The facts in the instant case are entirely different, as the petitioners are not similarly placed as PTIs/NFC or PTIs. Also, the work and duties performed by the petitioners cannot be termed equal to the one performed by the PTIs; teaching Art and Craft and Physical Training to the students are not one and the same thing. The nature of instructions to be imparted to the students by the Art and Craft Teachers and PTIs, are altogether different. Qualifications for these two posts are also different. Merely because PTIs and PTIs/NFC have been given higher pay scales under the peculiar circumstances mentioned hereinbefore, that cannot be a ground to claim the same pay scales for Art and Craft Teachers, that too at this stage, viz. after four decades of joining service.



7. In view thereof, there is no ground to entertain the petition and it stands dismissed *in limine*.

(TRIBHUVAN DAHIYA)
JUDGE

19.02.2025

Ad

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*