



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

(116)

**LPA-987-2025 (O&M)**

Date of Decision:-01.04.2025

State of Punjab and Others

.....Appellants

Versus

Tej Paul Wadhwa

.....Respondent

**CORAM: HON'BLE MRS. JUSTICE LISA GILL  
HON'BLE MR. JUSTICE ALOK JAIN**

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Present: Mr. R.S. Pandher, Sr. DAG, Punjab.

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**ALOK JAIN, J.**

**CM-2444-LPA-2025**

Heard.

For the reasons mentioned in the application and arguments addressed, delay of 127 days in filing of the appeal is condoned.

Application is disposed of accordingly.

**LPA-987-2025**

1. Present appeal has been filed by the State raising challenge to the judgment dated 15.10.2024 passed by the learned Single Judge in CWP NO. 18261 of 2018, whereby the petition filed by respondent (original writ petitioner) was allowed.



2. Brief facts of the case leading to filing of present appeal as narrated by the Learned State Counsel are as follows:

- a. The respondent was appointed as Junior Engineer in the Appellant-department on 18.01.1977 and was subsequently promoted to the post of as SDO on 14.06.2011. However, another employee namely, Sucha Singh, who was junior to the respondent (as he joined the appellant-department on 23.06.1979) was also promoted to the post of SDO on 08.11.2012. Despite being junior, Sucha Singh received higher pay/salary than the respondent. Resultantly, the respondent submitted representation to the Chief Engineer (South) detailing the said pay anomaly.
- b. Addressing the issue, Appellant No. 2, vide letter dated 03.02.2014 acknowledged the pay anomaly and attributed the same to a revision of pay scale of Junior Engineer's in 2011. It was further stated that the said matter was under review by the Finance Department.
- c. The respondent relied upon Government of Punjab's instructions issued by letter dated 21.06.2000 wherein it was clarified that the administrative Department may remove the anomalies by way of stepping up pay of the employee to the level of the junior subject to certain conditions and the subsequent similar instructions were issued by the government vide letter dated 13.10.2014.
- d. Due to changed circumstances, respondent again moved a representation before the department on which Appellant No. 2 vide letter dated 30.03.2015 rejected the same citing policy constraints, as due to the increase of pay scale of the Junior Engineers in view of the letter dated 01.12.2011, therefore the respondents cannot take the decision and Finance Department already taken up the matter.



- e. The respondent retired on 30.04.2015 and his pension was fixed, based on his last drawn salary at the time of retirement and later on Sucha Singh also retired on 30.04.2016 and due to his higher last drawn salary, he continued to receive higher emoluments than the respondent.
  - f. When respondent's objections remained unaddressed and legal notice went unanswered, he approached this court vide CWP No. 2039 of 2018, seeking quashing of the letters dated 03.02.2014 and 30.03.2015 vide which the stepping up of pay of the respondent was declined and the same was disposed off vide order dated 31.01.2018 by giving directions to the department for passing speaking order.
  - g. In compliance with court's directions, appellant No. 1 vide order dated 01.05.2018, passed speaking order declining the respondent's claim on the ground that Finance Department had issued clarification letter dated 21.12.2015 according to which the case of the respondent is not covered under the instructions.
3. Learned Single Judge vide judgment dated 15.10.2024, allowed the petition and returned the following findings:
- “7. *I have heard learned counsel for parties and have gone through the record with their able assistance.*
  8. *It is a settled principle of law that senior cannot get lesser salary than his junior unless and until there is exceptional circumstances such as the junior getting higher pay on account of higher qualification or on account of any punishment meted out towards senior. In the present case, no such circumstances exist rather, the junior Sucha Singh has been granted the higher pay only due to the fact that the petitioner got promotion from the post of Junior Engineer to that of Sub Divisional Officer prior to the structural revision of pay in the cadre Of Junior Engineer. After the structural change in the pay scale of Junior Engineer, Sucha Singh, who was working as a Junior Engineer, got higher pay and the same was*



*reflected when he got promotion to the post of Sub Divisional Officer.*

9. *It is a conceded position that Sucha Singh is junior to the petitioner in the Cadre of Junior Engineer as well as in the cadre of Sub Divisional Officer. That being so, the petitioner cannot be denied the benefit of step up of pay by placing reliance upon the Clarification dated 21.12.2015 (Annexure P-10).*

10. *As per the judgment in Ram Sarup Ganda case (supra), the Hon'ble Supreme Court of India has held that where an employee is senior; giving higher pay to the junior, creates anomaly and such anomaly has to be rectified by stepping up the pay of the senior to that of junior. The relevant paragraph 8 of the said judgment is as under:-*

“8. Rule 9 quoted above only says that the senior Government servants, who are direct recruits, are not entitled to get any stepping up case any anomaly arises regarding the receipt of lesser pay by them. However, the same is not applicable to the respondents herein who joined the service as Group "D" employees and later got promotion to Group "C" post by selection. If there is any anomaly to the effect that the senior Government servants are receiving lesser pay than their juniors, who entered the service from a different source of recruitment, certainly such senior Government servants are entitled to stepping up of their pay in order to bring them on par with the salary Which is being received by their juniors. There is no douse in the scheme Which prohibits such stepping up or salary which is a common practice applicable to all Government employees in case there is anomaly in the pay structure of the employees. the impugned judgment, the High Court has held that the respondents are entitled to get the ACP scales that are applicable to Group "C" post, but the Rules, as such, do not provide for that. The Rules say, that if there are already two upgradations, then the concerned employees are not entitled to the benefit Of ACP scales. Nevertheless, if ACP scales are higher, they certainly entitled to the ACP scales at the starting



*point, The date of giving such ACP scales is the date of entry into the service and though these respondents are entitled to get ACP scales and get fixation of the ACP scales as applicable to Group D" employees and in case there are anomalies to the effect that they, receive lesser pay than their juniors working in the same cadre/post, such senior Government servants are entitled to step up of their salary| to get it on par with the salary which is being received by their juniors. In the result, all the appeals are partly allowed. The appellants shall revise the pay scales of the respondents. In case of any anomaly, if the employees who, on fixation of ACP scales, are in receipt of lesser salary than their juniors in the same Cadre/post, then their salary shall be stepped up accordingly. Revised orders shall be passed within a period of two months of the receipt of the copy of this order by the Government."*

11. *Learned counsel for the respondents has not been able to rebut that as per the judgment in **Ram Sarup Ganda's case (supra)**, senior's pay has to be stepped up equivalent to the junior,*
12. *Further, no reason has been given in the Clarification dated 21.12.2015 (Annexure P-10), not to step up the salary of the junior. The only reason given is that in case in the cadre of Junior Engineer, the junior employee was getting more salary, he can still continue to get higher salary than his senior in the promoted cadre of Sub Divisional Engineer. The Same is no ground. The seniority has to be maintained and unless and until there are differentiating facts relating to the qualification, performance of the duties or any punishment imposed upon the senior etc, the senior cannot be denied benefit of the higher salary or the salary equivalent being drawn by a junior and his salary needs to be stepped up.*
13. *Keeping in view the above, the respondents are directed to grant the petitioner the benefit of step up of pay equivalent to Sucha Singh, from the date Sucha Singh got promotion to the post of Sub*



*Divisional Officer in which cadre the petitioner was already working with all consequential benefits such as arrears etc. Let the order be complied within a period of eight weeks of the receipt of copy of this order.*

14. *The present wit petition is allowed in above terms.”*

4. Learned State Counsel vehemently argued that the claim for stepping up of the pay of respondent was declined in view of policy guidelines issued by Government of Punjab vide letter dated 21.12.2015. These guidelines were formulated in accordance with Government of India's letter dated 19.05.2009, which clarified that no stepping up of pay is permissible. Relevant paras of Letter dated 19.05.2009 relied upon by learned counsel are reproduced as follows:

*“10. No stepping up of pay in the pay band or grade pay would be admissible with regard to junior getting more pay than the senior on account of pay fixation under MACP Scheme.*

*11. It is clarified that no past cases would be re-opened. Further, while implementing the MACP Scheme, the differences in pay scales on account of grant of financial upgradation under the old ACP Scheme (of August 1999) and under the MACP Scheme within the same cadre shall not be construed as an anomaly”*

5. In view of the above letter dated 19.05.2009, the same was adopted by Govt. of Punjab and policy guidelines vide letter No. 10/06/2014-4/ IFP2/346 dated 21.12.2015 were issued. Relevant extract of the policy relied upon by learned counsel is reproduced as under:

*“Here it is clarified that the Junior Engineer who got structural pay scale on the basis of the Finance Department above letter*



dated 1st December, 2011 and thereafter on his promotion as Sub Divisional Engineer and then on fixing his pay accordingly, and thereafter it can happen that on fixing the pay of this Sub Divisional Officer in this cadre, this Junior Official pay/grade pay can be more than his Senior Official Pay/Grade Pay, in these cases if the pay of the Junior Engineer in his upper cadre is more than his senior official then in this case, the pay of the Senior official will not be fixed equal to his Junior Official."

6. Learned State Counsel further emphasized the judgment relied upon by the Learned Single Judge and argued that the case of **Ram Sarup Ganda** has been incorrectly relied upon. In that case, both the senior and junior employees were from the same cadre (Group-C), but the senior employee had been promoted from Group-D, whereas the junior was directly recruited to Group-C. Facts of that case differ significantly from the present matter, and therefore, its ratio does not apply here. In the present case, the senior employee was already in Group-A, while the junior employee was in Group-B when the pay scale was revised under the 2011 policy.

7. Heard learned state counsel at length and perused the record.

8. Following chart reflects the dates of appointment and promotion of respondent/petitioner and his junior Sucha Singh:

<b>Tej Pal</b>		<b>Sucha Singh</b>	
18.01.1977	Appointed as JE	23.06.1979	Appointed as JE
14.06.2011	Promoted as SDO	08.09.2012	Promoted as SDO

9. The only dispute was that after the respondent/writ petitioner was promoted on 14.06.2011 as SDO, the pay band of the JEs was increased vide letter dated 01.12.2011. Subsequently, when Sucha Singh was promoted on 08.12.2012 as SDO his pay was more than the



respondent/writ petitioner. Admittedly, the respondent/writ petitioner immediately represented *qua* the said anomaly and raised his claim vide representation dated 19.09.2013 and he was informed that the matter had been taken up with the Finance Department and would be resolved. Respondent/writ petitioner again represented; however, appellant vide letter dated 30.03.2015, took shield of a notification issued by the Government of India in the year 2009 to deny the claim of the writ petitioner. The settled preposition of law as reflected in the case of *Ram Sarup Ganda (supra)*, passed by the Hon'ble Apex Court could not be distinguished. It has been held therein as under:

*"7. Rule 9 reads thus :-*

*"9. Non-admissibility of stepping up in certain cases. - If the service provides or circumstances warrant direct recruitment at the level of promotional post, in addition to the filling up of such posts through promotion, no benefit of pay upgradation to the Senior Government servant who happens to be a direct recruit to a post other than the post on which the junior Government servant is a direct recruitee, on the plea that the junior promotee is drawing more salary based on the benefit of ACP upgradation shall be admissible." (emphasis supplied)*

*8. Rule 9 quoted above only says that the senior Government servants, who are direct recruits, are not entitled to get any stepping up in case any anomaly arises regarding the receipt of lesser pay by them. However, the same is not applicable to the respondents herein who joined the service as Group "D" employees and later got promotion to Group "C" post by selection. If there is any anomaly to the effect that the senior Government servants are receiving lesser pay than their juniors, who entered the service from a different source of*



*recruitment, certainly such senior Government servants are entitled to stepping up of their pay in order to bring them on par with the salary which is being received by their juniors. There is no clause in the scheme which prohibits such stepping up of salary which is a common practice applicable to all Government employees in case there is anomaly in the pay structure of the employees. By the impugned judgment, the High Court has held that the respondents are entitled to get the ACP scales that are applicable to Group "C" post, but the Rules, as such, do not provide for that. The Rules say, that if there are already two upgradations, then the concerned employees are not entitled to the benefit of ACP scales. Nevertheless, if ACP scales are higher, they are certainly entitled to the ACP scales at the starting point. The date of giving such ACP scales is the date of entry into the service and though these respondents are entitled to get ACP scales and get fixation of the ACP scales as applicable to Group "D" employees and in case there are anomalies to the effect that they receive lesser pay than their juniors working in the same cadre/post, such senior Government servants are entitled to step up of their salary to get it on par with the salary which is being received by their juniors. In the result, all the appeals are partly allowed. The appellants shall revise the pay scales of the respondents. In case of any anomaly, if the employees who, on fixation of ACP scales, are in receipt of lesser salary than their juniors in the same cadre/post, then their salary shall be stepped up accordingly. Revised orders shall be passed within a period of two months of the receipt of the copy of this order by the Government.*

*9. However, if upon revision of the pay-scales, any employee is liable to refund any amount, the Government shall not insist on refund of such amount. If any employee is entitled to get*



*any amount by way of pay revision, the said amount shall be made available to him within a period of six months from the date of receipt of the copy of this order by the Government.”*

10. Perusal of the above clearly demonstrates that whenever a senior employee receives a salary lower than a junior due to an anomaly, the senior is entitled to a step-up in pay equivalent to that of the junior.

11. Learned Counsel for appellant could not demonstrate that the said anomaly is on account of any exceptional circumstances such as whether Sucha Singh was being paid a higher salary on account of any higher qualification or the respondent/writ petitioner was getting a lower pay on account of any punishment imposed upon him. In the absence of any such exceptional circumstances, learned Single Bench has rightly held the respondent/petitioner to be entitled to the benefit of step-up of pay and clarification dated 21.12.2015 being relied upon by the State also came into existence much after the claim was raised by respondent/writ petitioner.

12. In light of the above finding no infirmity in the order passed by learned Single Bench, accordingly the present appeal is dismissed.

13. Pending miscellaneous application(s), if any, stand(s) disposed of accordingly.

**(ALOK JAIN)**  
**JUDGE**

**(LISA GILL)**  
**JUDGE**

**01.04.2025**

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