
(2013) 07 P&H CK 0838

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 22748 of 2010

Ajaib Singh and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 26-07-2013

Acts Referred:

Citation : (2014) 1 SCT 160

Hon'ble Judges : Tejinder Singh Dhindsa, J

Bench : Single Bench

Advocate : S.K. Sharma Budhladawale, for the Appellant; Sudeepti Sharma, D.A.G., Punjab, for the Respondent

Final Decision : Disposed Off

Judgement

Tejinder Singh Dhindsa, J.—All the petitioners are working on a regular basis as Drivers in the Health Department, State of Punjab. The instant writ petition has been filed raising a two-fold claim. In the first instance, the petitioners are seeking the issuance of a writ of mandamus for directing the respondent-authorities to grant them pay parity/identical pay scales as admissible to Drivers working with Punjab Roadways and Pepsu Road Transport Corporation. The second grievance is with regard to the lack of promotional avenues in their cadre. Brief facts are that the petitioners were recruited as Drivers under the Punjab State Health Department in the basic pay scale of Rs. 1020-2130 and which, as per conversion table, was revised to Rs. 3300-6200 w.e.f. 1.1.1996. The pay scales stood further revised to Rs. 5910-20200 with grade pay of Rs. 2000 and initial total pay of Rs. 9880 w.e.f. 1.1.2006.

2. Learned counsel appearing for the petitioners while seeking pay parity with the posts of Drivers working with Punjab Roadways and Pepsu Road Transport Corporation would submit that the petitioners are also holding a valid driving licence for driving heavy vehicles and have qualified the Matriculation Examination. It has further been pleaded that the petitioners are also called upon to drive mobile unit buses which are in the nature of heavy vehicles and as such,

would argue that it would not be open for a welfare State to discriminate between employees holding the same designation as regards grant of pay scales is concerned. Learned counsel towards furtherance of such submission has even adverted to a tabulation furnished in para 14 of the writ petition.

3. Learned counsel for the petitioners on the issue of promotional avenues would place reliance upon a judgment of the Hon'ble Supreme Court in Council of Scientific and Industrial Research and Another Vs. K.G.S. Bhatt and Another, and would submit that the State Government was under an obligation to provide promotional avenues even to the cadre of Drivers in the Health Department. It is contended that in the case of Drivers working under Punjab Roadways and Pepsu Road Transport Corporation, promotional avenues to the higher post of Sub Inspector/Inspector and Chief Inspector have been duly provided.

4. Per contra, learned State counsel has argued that the service conditions of the petitioners are governed by the Punjab Health and Family Welfare Technical (Group-C) Service Rules, 2007 and the pay scales have been granted to the petitioners as admissible under Rule 5 thereof. It is further stated that the Drivers working under Punjab Roadways and Pepsu Road Transport Corporation are governed by different sets of Service Rules and the petitioners while working as Drivers under the Health Department cannot be equated with the Drivers working in another Department, be it Punjab Roadways or Pepsu Road Transport Corporation. It has further been averred in para 7 of the reply that the petitioners are not normally called upon to drive the heavy vehicle i.e. mobile unit bus. In a nut-shell, the equation between the post of Drivers working in the Health Department and other Departments of the State Government has been denied. Learned State counsel would also submit that under the 2007 Service Rules governing the conditions of service of the petitioners, there is no promotional avenues provided and since there is no challenge to the relevant Service Rules, the prayer with regard to such relief cannot be granted.

5. Learned counsel for the parties have been heard at length.

6. The principles relating to grant of higher scale of pay on the basis of "equal pay for equal work" are well settled. The evaluation of duties and responsibility of different posts and determination of the pay scales applicable to such posts and determination of parity in duties and responsibility are complex executive functions which lie within the domain of policy decisions. Such exercise can only be carried out by expert bodies. The prayer of the present petitioners for grant of pay parity with the Drivers working under Punjab Roadways and Pepsu Road Transport Corporation would depend upon comparative job evaluation and equation of posts. The pleadings on record are grossly insufficient for this Court to embark upon an exercise to return a finding as regards equation of the post of Driver working under the Health Department with that of a Driver under Punjab Roadways/Pepsu Road Transport Corporation. Comparison merely based on designation of posts is misconceived.

7. Even otherwise, it would be common knowledge that Drivers engaged by Punjab Roadways/Pepsu Road Transport Corporation would be driving buses and would operate on long routes. The nature of job requirement of a Driver under the Health Department, State of Punjab would be distinctly different. The petitioners have themselves furnished details as regards the class of vehicles that are available under the Health Department and to be operated by them i.e. Sumo, Ambulance, mini buses, Ambassador Cars/Gypsy, Qualis, mobile unit bus etc. Clearly, the petitioners are operating light and medium motor vehicles apart from having been called upon to operate the mobile unit bus occasionally.

8. In the absence of any conscious decision having been taken by the competent authority equating the post of Driver in the Health Department with that of Driver under Punjab Roadways/Pepsu Road Transport Corporation, I am of the view that the petitioners have no legal right to claim the higher pay scales as prayed for.

9. As regards the relief sought by the petitioners for providing avenues of promotion, it would be apposite to refer to the observations of the Hon'ble Supreme Court in the case of CSIR and another (supra):

It is often said and indeed, adroitly, an organisation public or private does not "hire a hand" but engages or employs a whole man. The person is recruited by an organisation not just for a job, but for a whole career. One must, therefore, be given an opportunity to advance. This is the oldest and most important feature of the free enterprise system. The opportunity for advancement is a requirement for progress of any organisation. It is an incentive for personnel development as well. Every management must provide realistic opportunities for promising employees to move upward. "The organisation that fails to develop a satisfactory procedure for promotion is bound to pay a severe penalty in terms of administrative costs, misallocation of personnel, low morale, and ineffectual performance, among both non-managerial employees and their supervisors." There cannot be any modern management much less any career planning, manpower development, management development etc. which is not related to a system of promotions. The appellant appears to have over looked this basic requirement of management so far as respondent 1 was concerned till NR and AS was introduced.

Their Lordships reiterated the afore-mentioned view in a later judgment rendered in Dr. Ms. O.Z. Hussain Vs. Union of India and others, and held as under:

This Court, has on more than one occasion, pointed out that provision for promotion increases efficiency of the public service while stagnation reduces efficiency and makes the service ineffective. Promotion is thus a normal incidence of service. There too is no justification why while similarly placed officers in other Ministries would have the benefit of promotion, the non-medical A" Group Scientists in the establishment of Director General of Health Services should be deprived of such advantage. In a welfare state, is necessary that there

should be an efficient public service and therefore, it should have been the obligation of the Ministry of Health to attend to the representation of the Council and its members and provide promotional avenue for this category of officers. It is, therefore, necessary that on the model of rules framed by the Ministry of Science and Technology with such alterations as may be necessary, appropriate rules should be framed within four months from now providing promotional avenue for the "A" category scientists in the non-medical wing of the Directorate.

10. The basic object of the judgments delivered by the Hon"ble Supreme Court was to break the stagnation in the career of an employee so that he may not keep on working in one cadre on the same pay scale. The aforesaid object by and large has been achieved by the State Government by devising and implementing the Assured Career Progression Scheme. Such a scheme which stands largely implemented across various Departments in the State of Punjab envisage the grant of proficiency step-up increments that is a financial benefit on completion of a certain number of years of service in a cadre on account of the concerned employee not having been promoted for want of a promotional avenue. Learned counsel appearing for the petitioner on being specifically asked as to whether the present petitioners have stood to benefit from any such Assured Career Progression Scheme has responded that he does not have any instructions in regard thereto.

11. As such, while disposing of present writ petition, it is directed that in case the Assured Career Progression Scheme has not been made applicable to the petitioners working in the Health Department, the State Government shall consider the same, particularly, in view of the admitted position of fact that under the statutory Service Rules governing the conditions of service of the petitioners, there is no promotional avenues available to them. With the aforesaid observations, the writ petition stands disposed of.