

(2010) 12 P&H CK 0631

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 16441 of 2009

Balbir Singh Chahal and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 16-12-2010

Acts Referred:

Citation : (2011) 162 PLR 6

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ranjit Singh, J.—The Petitioners are the Government servants and working as Legal Officers in the Development and Panchayat Department, Haryana. They are posted at District Level on Gazetted posts and are also notified as Government Pleader by the State of Haryana. The 6th Pay commission has recommended revision of pay scales of the posts carrying minimum qualification of a degree in law. The Central Government has statedly revised the pay structure for certain posts in Ministries Department and Union Territories. The posts in the scale of Rs. 6500-10500/- carrying minimum qualification of either degree in Engineering or the degree in law, have been upgraded and placed in the scale of Rs. 7450-11500/- corresponding to the revised pay band in the scale of Rs. 9300-34800/- along with grade pay of Rs. 4600/-. The State of Haryana has also revised the pay scales of its employees on the pattern as adopted by the Central Government. The revised pay-scales have also been notified on 30.12.2008. It is then pleaded that the pay scale of Assistant District Attorney (A.D.A.) in Prosecution Department has been upgraded on 7.1.2009, whereas the posts of the Petitioners (Legal Officers) carrying essential qualification of degree of law, have not been mentioned specifically in the notification. Claiming that they are also eligible for gradation on the pay scale equal to the scale of A.D.A. of Prosecution Department or Block Development & Panchayat Officers etc., the Petitioners have filed this writ petition.

2. State has filed reply pointing out that the mode of recruitment, nature of duty, job responsibility of A.D.A. Prosecution and Law Officers of the Development and Panchayat Department are altogether different and separate. It is also stated that both are governed by different set of Rules with different conditions. It is, accordingly, pleaded that the Petitioners cannot validly claim parity either with the Block Development Panchayat Officers or with the A.D.A. Prosecution. The Respondents would also point out that pay revision in the scale is granted on the following conditions:

- i) method of recruitment.
- ii) level at which recruitment is made;
- iii) the hierarchy of service in a given cadre;
- iv) minimum educational/technical qualifications required;
- v) avenues of promotions;
- vi) the nature of duties and responsibilities;
- vii) the horizontal and vertical relativities with similar jobs;
- viii) public dealings;
- ix) satisfaction level;
- x) employer's capacity to pay etc.

3. Reference is also made to the law laid down by the Hon'ble Supreme Court in the case of State of U.P. v. J.P. Chaurasia and Ors. AIR 1989 S.C. 19, where it is held as under:

More often functions of two posts may appear to be the same or similar, but there may be difference in degrees in the performance. The quantity of work may be the same, but quality may be different that cannot be determined by relying upon averments in affidavits of interested parties. The equation of posts or equation of pay must be left to the Executive Government. It may be determined by expert bodies like Pay Commission. They would be the best judge to evaluate the nature of duties and responsibilities of posts. If there is any such determination by a Commission or Committee, the Court should normally accept it. The Court should not try to tinker with such equivalence unless it was made with extraneous consideration.

4. It is also pleaded that the equation of posts or determination of pay scales, is the primary function of the Executive Government and not of the judiciary and therefore, ordinarily Court do not enter into the realm of task of job evaluation. In this regard, support is taken from the Secretary Finance Department and Ors. v. West Bengal Registration Services Association and Ors. 1992 (2) S.L.R. 82. It has further been observed in this case as under:

Court must however realize that job evaluation is both a difficult and time consuming task which even expert bodies having the assistance of staff with requisite expertise have found difficult to undertake sometimes on account of want of relevant data and scales for evaluating performances of different groups of employees. This would call for a constant study of the external comparison and internal relativities on account of the changing nature of job requirements. The factors which have to be kept in view for job evaluation may include (i) the work programme of his department (ii) the nature of contribution expected of him (iii) the extent of his responsibility of his diverse duties and functions (iv) the extent and nature of freedom/limitations available or imposed on him in the discharge of his duties (v) the extent of powers vested in him (vi) the extent of his dependence on superiors for the exercise of his power (vii) the need to coordinate with other departments etc. We have also referred to the history of the service and the effort of various bodies to reduce the total number of pay scales to a reasonable number. Such reduction in the number of pay scales has to be achieved by resorting to broad banding of posts by placing different posts having comparable job charts in a common scale.

Substantial reduction in the number of pay scales must inevitably lead to clubbing of posts and grades which were earlier different and unequal. While doing so, care must be taken to ensure that such rationalization of the pay structure is evolved keeping in mind several factors e.g. (i) method of recruitment (ii) level at which recruitment is made (iii) the hierarchy of service in a given cadre (iv) minimum educational/technical qualifications required (v) avenues of promotions (vi) the nature of duties and responsibilities (vii) the horizontal and vertical relativities with similar jobs (viii) public dealings (ix) satisfaction level (x) employer's capacity to pay etc.

While evolving a pay structure, the horizontal and vertical relativities have to be carefully balanced keeping in mind hierarchical arrangements, avenues for promotion etc. Such a carefully evolved pay structure ought not to be ordinarily disturbed as it may upset the balance and cause avoidable ripples in other cadres as well.

5. Judging the prayer made in the present writ petition in the parameters of law as noted above, no case of equating the pay scale of the Petitioners and of the A.D.A. Prosecution is made out. It is seen that there is no material placed on record to show that the job requirement and work of the Petitioners is of same or similar in nature to that of A.D.A. Prosecution. Except for equal education qualification, no similarity is noticed in the jobs. That alone is not the valid consideration for granting equal pay for equal work. The A.D.A. Prosecution would be required to argue the cases in the Court, which is a job entirely different from that of Law officer, who works in the office and is to lend advice. It would not be fair to equate the work and duties performed by these two categories of officers.

6. There is no merit in the writ petition. The same is, accordingly, dismissed.