
(2013) 09 P&H CK 0271

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 15618 of 2004 (O and M)

Gurcharan Kaur and Others

APPELLANT

Vs

The State of Punjab and Another

RESPONDENT

Date of Decision : 09-09-2013

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2014) 173 PLR 476

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : Amit Chopra, for the Appellant; Ranbir Singh Pathania, DAG Punjab, for the Respondent

Final Decision : Disposed Off

Judgement

K. Kannan, J.—The writ petition was directed to be posted for the disposal of the case in Civil Writ Petition No. 10008 of 2006. The said case has been decided on 23.02.2010. It was in relation to a claim for revised pension that the duty period in Corporation before they were absorbed in government should also be counted for fixation of pension. The Court accorded to them the said benefit. In this writ petition, the case is not with reference to fixation of scale in the newly absorbed post in the government and not for fixation of pension. Consequently, the judgment in CWP No. 10008 of 2006 itself may not apply. The learned counsel for the petitioners, therefore, refers to the Division Bench ruling of this Court in State of Punjab and others Versus S.C. Chadha and another-2007(4) SCT 823 that dealt with an alleged similar situation of a Project Manager in the State Corporation, such as, PUNTEX, who was later absorbed in government service as Treasury Officer. The absorption was in a lower scale and the employee, who was asking for the scale applicable to the said post in the government was resisted by a plea by the State that he had admitted to the absorption at the particular scale. The Bench ruled that the government itself had laid down a policy to protect the employees in the last pay drawn at the Corporation and, therefore, a

grant of lower scale would not be permissible. The point is not exactly an issue before this Court of protection of scale in the Corporation. On the other hand, the petitioners seek for a scale applicable to the post in government service when they were absorbed. I would understand that in such a situation even the decision referred to by the counsel may not strictly apply, but I would hold that a person, who is inducted in government service in a particular post shall be entitled to any revision of pay scales attached to any post and it cannot be denied on the only ground that the Corporation where they were working did not provide to its employees the revised scales in the posts respectively held by them. When an employee had joined yet another organization and the scales in particular post have been revised, the benefit of such revision of scales shall be given on a principle of fair play and equity that in the same organization there were not two different scales for persons occupying the same posts. The petitioners' claim would require to be upheld for the only reason that if it is not done, it would fall foul of Article 14 of the Constitution of India as being discriminatory. I uphold the petitioners' contention and allow the writ petition with the direction that the petitioners shall be allowed the benefit of scales applicable to the post for government servants and arrears, if any, are to be calculated within a period of 12 weeks and released to them and if not done, they would be entitled to recover the same with interest at 6%. Consequently, the order passed in P7 for the first petitioner and similar orders for the other petitioners would require to be quashed and accordingly, quashed.

2. The writ petition is disposed of as above.