

(2013) 07 P&H CK 0301
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 13182 of 2013 (O and M)

Harvinder Singh and Others	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 22-07-2013

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2013) 07 P&H CK 0301

Hon'ble Judges : Tejinder Singh Dhindsa, J

Bench : Single Bench

Advocate : Girish Agnihotri, with Ms. B. Jeet Sheoran, for the Appellant;

Final Decision : Disposed Off

Judgement

Tejinder Singh Dhindsa, J.

CM No. 10239 of 2013:

Application is allowed as prayed for.

CM disposed of.

CM No. 10240 of 2013:

Application is allowed. Annexures P-12 & P-13 are taken on record.

CM disposed of.

Main case:

1. The petitioners who are working as Conductors under the Punjab State Transport Department have preferred the instant writ petition praying for the issuance of a writ of mandamus for directing the respondents to remove an alleged disparity/anomaly in their pay scales and consequently, to grant them the pay scale equivalent to that of a Clerk working in the same very department. Towards substantiating such claim learned senior counsel appearing for the

petitioners would refer to a Notification dated 21.01.1969 (Annexure P-13), whereby the Punjab Civil Services (Revised Scales of Pay) Rules, 1969 were promulgated. Counsel would advert to the schedule appended along with the Notification to assert that a conscious decision had been taken way back in the year 1969 itself to equate the post of Conductor with that of a Clerk in the matter of grant of pay scale/emoluments. Appended along with the petition is a tabulation at Annexure P-3 reflecting the comparative pay scales made admissible to the Conductors as also the Clerks from the year 1966 till the year 2011. A perusal of the same would reveal that w.e.f. 01.02.1968 till December, 2011, parity in pay scales between the post of Conductor and Clerk had been maintained. It is only in terms of Notification dated 15.12.2011 (Annexure P-11) and implemented w.e.f. 01.12.2011 that the Clerks have been granted the revised scale of Rs. Rs. 10,300-34,800/- with grade of Rs. 3200 plus initial pay of Rs. 13,500/-, whereas the benefit of such revised scale has been denied to the petitioners while working on the post of Conductors.

2. The precise argument raised by the learned senior counsel is that a conscious decision having been taken by the Competent Authority as regards equation of two posts, it was not open for pay parity thereafter to be broken. It has further been submitted that it is only for a cogent basis that the pay parity that has held good right from the year 1969 to the year 2011 could have been deviated from.

3. Counsel for the petitioners has been heard at length.

4. It is by now well settled that matters relating to equation of posts, grant of pay scales etc. fall within the domain of policy making at the hands of the executive. Fixation of pay scales/revision thereof, involves an intricate process, wherein relevant parameters in the nature of qualifications prescribed, mode of recruitment, duties and responsibilities, the financial capacity of the employer etc. would come into play. This is an exercise which would be best left to the expert body in the nature of a Pay Commission or a Pay Anomalies Committee and not to be undertaken by a writ Court while exercising jurisdiction under Article 226 of the Constitution of India. A reference in this regard may be made to the decision of the Hon"ble Supreme Court in State of Haryana and Others Vs. Charanjit Singh and Others, etc. etc., and S.C. Chandra and Others Vs. State of Jharkhand and Others, .

5. In view of such settled dictum, I am of the considered view that no interference at this stage is called for in the present writ petition. Be that as it may, learned senior counsel has referred to a document wherefrom it can prima facie be inferred that a post of Clerk and that of a Conductor under the Transport Department had been equated in the year 1969. It is for the Appropriate Authority to examine as to whether there would be any good/plausible basis to deviate from such equation and to grant different pay scales to such posts.

6. Accordingly, the present writ petition is disposed of in terms of granting liberty to the petitioners to submit a detailed representation as regards their claim and

grievance. In the eventuality of any such representation being preferred, it shall be obligatory upon respondent No. 2 to process the same and take a final view in the matter in an expeditious manner. It shall also be open for respondent No. 2 to refer the issue to any expert body in the nature of Pay Anomalies Committee etc. Writ petition disposed of accordingly.