

(2013) 12 P&H CK 0067
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 14171 of 1995

Jagan Nath Singla and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 21-12-2013

Acts Referred:

Citation : (2014) 2 SCT 270

Hon'ble Judges : Bharat Bhushan Parsoon, J

Bench : Single Bench

Judgement

Bharat Bhushan Parsoon, J.—These petitions have been preferred by Agriculture Masters working in Education Department of the State of

Punjab. Seeking pay parity with Agriculture Inspectors (redesignated as Agriculture Development Officers) working in various other departments

of the Punjab Government, they have sought pay scales of Rs. 2,200-4,000 w.e.f. 1.1.1991. Release of arrears with 18% interest w.e.f. 1.1.1991

till the date of payment has also been sought. Quashing of order dated 12.7.1995 (Annexure P-8) vide which such benefits have been denied to

them, has also been sought by issuance of a writ of certiorari against the respondents. Since the matter in issue in all these petitions is the same,

these petitions have been taken up together for adjudication. However, for clarity and convenience, facts have been taken from CWP No. 14171

of 1995.

2. All the petitioners are B.Sc. (Agriculture). In yester-years, persons with qualifications of B.Sc. (Agriculture) used to seek employment either as

Agriculture Inspectors in the Agriculture Department or as Agriculture Master in the Education Department. These two departments were much

haunted by graduates in Agriculture Science. At that time, pay scale of both these departments were identical i.e. Rs. 130-300. Later on, in the

year 1968, Agriculture Inspectors were put in the pay scale of Rs. 220-500 (with initial scale of Rs. 250-500). Agriculture Inspectors were also

given pay scale of Rs. 250-450.

3. As per recommendations of the Second Pay Commission, Agriculture Masters were given pay scale of Rs. 620-1200 (Starting with Rs. 660/-)

whereas pay scale of Agriculture Inspectors was recommended as Rs. 700-1200. It was w.e.f. 1.1.1978. In the year 1986, Agriculture Inspectors

as also Agriculture Masters were placed in the same pay scale of Rs. 1640-2925.

4. Claiming that Agriculture Inspectors were imparting training in the field of agriculture irrespective of the department/office in which they were

working, whereas the petitioners were working as Agriculture Masters they were also teaching students by holding regular classes and in addition

were also imparting practical training to the students in the farms attached to the schools. It is claimed that whether Agriculture Inspectors were

working as Soil Conservator Inspectors in the Department of Soil Conservation or were working as Agriculture Development Officers (Fodder) in

the Department of Agriculture, Department of Horticulture, Animal Husbandry Department or were working as Agriculture Inspectors in the

Department of Rural Development and Panchayats, their job everywhere was the same i.e. to enlighten farmers with regard to latest techniques of

farming, soil reclamation, growing of fodder and other matters connected therewith. Everyone of them was working from 9.00 a.m. to 5.00 p.m.

5. With these averments, explaining their case further, the petitioners have averred that notwithstanding recommendations of Third Pay Commission

for the same pay scale of Rs. 1640-2925 for Agriculture Inspectors and Agriculture Masters, the Government on its own had revised the pay scale

of Agriculture Inspectors to Rs. 2000-3500 w.e.f. 1.1.1986 when they were re-designated as Agriculture Development Officers.

6. Agriculture Development Officers belonging to Agriculture Department had made representation for grant of the initial pay scale of Rs. 2,200-

4,000 or Rs. 3,000-4,500 after 8 years of service and Rs. 3,700-5,300 after 18 years of service. They had claimed higher pay scales, inter alia,

on the ground that these were the pay scales which were being given to the

persons holding the qualifications of B.Sc. i.e. Bachelor of Veterinary Sciences. Accepting their representation w.e.f. 1.1.1991, the Council of Ministers also decided that request of other identical employees working in other departments also required to be considered with the concurrence of Finance Department (Annexure P-2).

7. Claiming that Agriculture Masters have higher responsibilities than incumbents of other category of posts having qualification of B.Sc.

(Agriculture) as they in addition to teaching have also to look after the farms. Pay parity has been sought with other posts having B.Sc.

(Agriculture) as the basic qualification. Decision of Council of Ministers of 18.9.1992 has been cited in support. This parity though was denied to

Agriculture Masters, but was granted in case of Agriculture Inspectors (redesignated as Soil Conservation Officers and Agriculture Instructors of Rural Development and Panchayats).

8. Even earlier, the petitioners had approached this Court by way of CWP No. 15227 of 1994, by disposing of the same, this Court on

26.10.1994 (Annexure P-7) directed the respondents to consider and decide representation of the petitioners. The said representation was

decided by respondent No. 1 on 11/12.7.1995 (Annexure P-8) whereby claim of the petitioners was rejected.

9. Asserting validity with other posts on different departments where basic qualification is B.Sc. (Agriculture) as is in the case of the petitioners,

parity in scales of pay has been sought citing decision of 19.8.1992 of the Council of Ministers and claiming that role and responsibilities of the

petitioners are even more arduous than incumbents of pari-materia posts in other departments.

10. This claim of the petitioners has been contested. Claim of the respondents is that Agriculture Masters and Agriculture Inspectors belong to

different cadres serving different departments, and as such they are governed by different service rules. Pleading that case of the petitioners is

totally different, it has been canvassed that Agriculture Inspectors have different qualifications than those which have been prescribed for

Agriculture Masters. It has further been elaborated that Government accepted the genuine recommendations of the Kothari Commission as also of

the subsequent Punjab Pay Commissions of 1968, 1978 and 1986 with regard to

recommendations of Anomaly Committees which had been constituted to redress genuine grievances of the employees. Setting out pleadings that there is no parity with regard to their job profile etc., parity in pay scales is denied to the petitioners.

11. In replication submitted qua the written statement furnished by the respondents, assertions earlier made in the petition were reiterated.

12. Hearing has been provided to counsel for the parties while going through the paper books.

13. At the outset, learned counsel for the petitioners citing Krishan Lal and others v. Central Administrative Tribunal, Chandigarh Bench,

Chandigarh and another 2008(3) RSJ 431 (P&H) has urged that once the pay parity had been maintained, the same could not be disturbed on

revision of pay scales. In this authority, pay parity was maintained but the petitioners were granted revised pay scales only w.e.f. 3.11.1989 and

not w.e.f. 1.1.1986. It was held that the petitioners shall be deemed to have been granted pay scale w.e.f. 1.1.1986 instead of 3.11.1989 and

would be entitled to all other consequential benefits. Support has also been sought from Haryana Financial Corporation, Chandigarh v. Deva

Singh, Law Officer and others 2012(1) SCT 745 (P&H). In this authority, Legal Assistants, Law Officers and Deputy Senior Manager (Law) in

the Haryana Financial Corporation. Chandigarh had been equated with that of Assistant District Attorneys, Deputy District Attorneys and District

Attorneys working in the State of Haryana respectively. It was held that equation of posts could not be disturbed at the whims and fancies of the

State Government refusing to grant approval whenever there is revision of pay scale in the cadre of Assistant District Attorneys, Deputy District

Attorneys and District Attorneys working with the State. It was further held that when parity was being maintained, it would result into automatic

revision of pay scales of Legal Assistants. Law Officers and Deputy Senior Manager (Law) in the State Financial Corporation.

14. Seeking support from Haryana State Biologists Association v. The State of Haryana 1994(3) S.C.T. 198 (P&H), it is urged that parity of pay

scales which is granted and continues to be valid for a long time, cannot be disturbed without the authority of law. It was also held that if the pay

scales are revised, one category cannot be denied the revision of pay scales.

Citing Ram Pal and Others Vs. The State of Punjab and Others, it is urged that once pay parity was maintained and Statistical Assistants working in different departments of Punjab Government had been placed on identical pay scales, in subsequent and successive revision of pay scales, parity of their pay scales was required to be maintained. It was held that once the Government decides to equate pay scales of certain posts with other posts, it is not open to discriminate between the two at the time of subsequent revisions and that parity of pay could not be disturbed without authority of law. In this authority, Statistical Assistants selected pursuant to one interview held for them were allocated to different departments though who were having higher merit, were allocated to Agriculture Department whereas others were sent to other different departments of the State. It was held that they could not be discriminated in the matter of pay scales by the Government only because they are working in different departments. Yet another judgment reported as G.K. Nagpal and Others Vs. The Punjab State Electricity Board, has been cited by the petitioners urging that once different posts even requiring different qualifications, are equated on the basis of similarity of qualifications and duties and are placed in the same pay scales, then in various pay revisions different pay scales cannot be prescribed for Such posts subsequently on the grounds of there being different qualifications and that too without recording sufficient reasons justifying departure from earlier decisions of the authorities equating the posts. Reference has also been made to CWP No. 23138 of 2010 titled Dr. Naresh Kumar Kataria and others v. State of Punjab and others decided on 5.1.2012 by this Court. This decision had been rendered after conscious decision was taken by the State Government to equate the petitioners with members of Veterinary Service and hence equivalence in pay scale was ordered to be maintained at the subsequent revision of pay scales as well.

15. Per contra, stand of the respondents is that neither at any point of time there was any decision of the State Government to equate the petitioners with the Agriculture Inspectors now nomenclatured as Agriculture Development Officers, nor at any stage such conscious decision of granting equivalence in pay scales was taken for them. It is urged that the matter of equation of posts and parity of pay scales falls exclusively

within the domain of specialised agencies like Pay Commissions etc. on the basis of recommendations of such agencies, final decision is taken by

the appropriate Government. It is further claimed that in the absence of any order of equation by the Government, Court has no such expertise. In

Sant Ram v. State of Punjab 2004 (3) RSJ 145 (P&H), it was held by this Court that when there is difference in the nature of duties, qualifications

and other considerations of service, doctrine of "equal pay for equal work" cannot be invoked. Para 7 of the judgment for ready reference is

appended as below:

It is a well settled law that the matter with regard to the question of posts and parity of pay scales falls exclusively within the domain of the

specialised agencies like Pay Commissions and the final decision in this regard has to be taken by the competent government. The courts have

hardly any expertise to adjudicate upon the intricate issues like equation of posts for the purposes of grant of equal pay scales. Reference in this

regard may be made to State of U.P. and Others Vs. J.P. Chaurasia and Others, and Grih Kalyan Kendra Workers' Union Vs. Union of India

and others, . It is, however, equally well settled that if there is a consciously taken decision to equate two posts for the purpose of granting pay

scale, it is impermissible to discriminate between incumbents of these posts at a subsequent stage while placing them in the revised pay scales so

long as the decision to equate the two posts is not reversed on certain valid grounds. Wherever, there is equation of two posts, the right to claim

same revised pay scale has been recognised in a series of judgments by this court including the Division Bench judgment in The State of Punjab v.

Dr. Gautam Mahajan and other 1994(1) S.C.T. 776 : 1994 (2) RSJ 102 as well as by the Hon'ble Supreme Court of India in the case of

Employees of Tannery and Footwear Corporation of India Ltd. and another Vs. Union of India and others, .

16. At this stage, para 8 of this judgment for convenience and clarity of the concept is also reproduced as under:

From the pleadings referred to above, particularly, in view of the stand taken by the respondents in para 5 of the written statement, no equation of

the post of Senior Laboratory attendant vis a vis clerk is discernible. In the absence of any conscious decision equating the post of Senior

laboratory attendant with that of clerks, I am of the view that the petitioners have no legal right to claim the same revised higher pay scales as have been granted to the cadre of clerks, further, in the light of difference in the nature of duties, qualifications and other conditions of service, even the doctrine of "equal pay for equal work" cannot be invoked by the petitioners. I, therefore, find no merit so far as the petitioners' claim for the grant of higher revised pay scales, at par with the clerks, is concerned.

17. In *State of Punjab Vs. Surjit Singh and Another*, cited by learned counsel for the respondents, it was held that for applicability of doctrine of equal pay for equal work, applicability of mode of appointment was relevant factor. Yet another decision cited by learned counsel for the respondents is *Sunder Dass Ahlawat v. State of Haryana* 2000 (1) S.C.T. 795 of a Division Bench of this Court where parity in pay scales was sought by Steno-Typists with pay scales of Sub-Divisional Clerks where qualification for both the posts was matriculation and prior to 1.1.1986 both the posts were in same pay scale. Both the posts were part of State Service Group-C, Ministerial Establishments of Subordinate Offices. In this authority, it was held as under:

We are in agreement with the learned single Judge that the question regarding the nature of duties attached to each post and pay scales that should be fixed for each category of employees are matters for the expert committees like the Pay Commissions to determine and this Court in the very nature of things cannot examine those matters. Merely because more than one categories of employees in different departments were given the same scale of pay prior to 1.1.1986 will not justify the appellants to claim that the parity should be maintained even in different departments were given the same scale of pay prior to 1.1.1986 will not justify the appellants to claim that the parity should be maintained even after the revision of pay scales. The fact that the appellants were drawing the same scale of pay as those of Sub Divisional Clerks would not lead to the inference that they were put at par by the Government by a conscious decision. The fallacy in the argument of the learned counsel for the appellants will be noticed immediately when we find that even Wild Life Inspectors were put in the same scale of pay as that of the appellants prior to 1.1.1986 and after revision they have been given even a higher scale of Rs. 1350-2200. If the

arguments of the appellants were to be accepted then the Sub

Divisional Clerks should have been given parity in the pay scale with the Wile Life Inspectors as well who were discharging totally different duties

in different set of circumstances. We are of the view that the employees belonging to a particular category could insist on parity in the pay scales

being maintained only if at any earlier point of time the Government by a conscious decision had equated the two categories of employees at part

for purposes of pay scale after considering their nature of duties and the conditions of their service.

18. Yet another judgment referred to by counsel for the respondents reported as State of Haryana and Others Vs. Charanjit Singh and Others,

etc. etc., is from the Apex Court. The relevant paragraphs of this judgment are reproduced on the next page:

15. In State of Punjab and Others Vs. Devinder Singh and Others, it was noted that the concerned Ledger Clerks were found to have been given

similar work as regular Ledger Clerks. This Court without any further discussion or consideration held that concerned Ledger Clerks would be

entitled to the minimum of the pay scale of Ledger Clerks. It was directed that this be paid for a period of three years prior to the filing of the Writ

Petition. It seems that attention of this Court was not brought to the earlier authorities, which lay down when the principle of equal pay for equal

work can apply. Also we are unable to accept the finding that for similar work the principle of equal pay applies. Equal pay can only be given for

equal work of equal value.

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17. In Bhagwan Dass and Others Vs. State of Haryana and Others, this Court held that if the duties and functions of the temporary appointees and

regular employees are similar there cannot be discrimination in pay merely on the ground of difference in modes of selection. It was held that the

burden of proving similarity in the nature of work was on the aggrieved worker. We are unable to agree with the view that there cannot be

discrimination in pay on the ground of differences in modes of selection. As has been correctly laid down in Jasmer Singh's case (supra) persons

selected by a Selection Committee on the basis of merit with due regard to seniority can be granted a higher pay scale as they have been evaluated

by competent authority and in such cases payment of a higher pay scale cannot be challenged. Jasmer Singh's case has been noted with approval

in Tarun K. Roy's case.

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19. Having considered the authorities and the submissions we are of the view that the authorities in the cases of Jasmer Singh, Tilak Raj, Orissa

University of Agriculture & Technology and Tarun K. Roy lay down the correct law. Undoubtedly, the doctrine of "equal pay for equal work" is

not an abstract doctrine and is capable of being enforced in a Court of law. But equal pay must be for equal work of equal value. The principle of

equal pay for equal work" has no mechanical application in every case. Article 14 permits reasonable classification based on qualities or

characteristics of persons recruited and grouped together, as against those who were left out. Of course, the qualities or characteristics must have a

reasonable relation to the object sought to be achieved. In service matters, merit or experience can be a proper basis for classification for the

purposes of pay in order to promote efficiency in administration. A higher pay scale to avoid stagnation or resultant frustration for lack of

promotional avenues is also an acceptable reason for pay differentiation. The very fact that the person has not gone through the process of

recruitment may itself in certain cases, make a difference. If the educational qualifications are different, then also the doctrine may have no

application. Even though persons may do the same work, their quality of work may differ. Where persons are selected by a Selection Committee

on the basis of merit with due regard to seniority a higher pay scale granted to such persons who are evaluated by competent authority cannot be

challenged. A classification based on difference in educational qualifications justifies a difference in pay scales. A mere nomenclature designating a

person as say a carpenter or a craftsman is not enough to come to the conclusion that he is doing the same work as another carpenter or craftsman

in regular service. The quality of work which is produced may be different and even the nature of work assigned may be different. It is not just a

comparison of physical activity. The application of the principle of equal pay for equal work" requires consideration of various dimensions of a

given job. The accuracy required and the dexterity that the job may entail may

differ from job to job. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility.

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Functions may be the same but the responsibilities made a difference. Thus normally the applicability of this principle must be left to be evaluated

and determined by an expert body. These are not matters where a writ court can lightly interfere. Normally a party claiming equal pay for equal

work should be required to raise a dispute in this regards. In any event the party who claims equal pay for equal work has to make necessary

averments and prove that all things are equal. Thus, before any direction can be issued by a Court, the Court must first see that there are necessary

averments and there is a proof. If the High Court, is on basis of material placed before it, convinced that there was equal work of equal quality and

all other relevant factors are fulfilled it may direct payment of equal pay from the date of the filing of the respective Writ Petition. In all these cases,

we find that the High Court has blindly proceeded on the basis that the doctrine of equal pay for equal work applies without examining any relevant

factors.

19. When the factual matrix of the petitions in hand are examined in the interface of law discussed earlier, it transpires that the concept of "equal

pay for equal work" is neither straight-jacket nor is an abstract doctrine. It has no mechanical application in every case. There are multiple factors

which are relevant for decision of these petitions. Demonstratively, some of these may be recapitulated hereunder:

(i) For payment of equal pay, equal work has to be of equal value and quality;

(ii) Burden of proving equal work of equal value, equal quality and equal characteristics with similarly in the nature of work, is on the aggrieved

persons:

(iii) Difference in the modes of selection is to be considered:

(iv) Comparative merit, seniority as also experience may form the basis for different pay scales; and

(vi) Functions may be the same but the responsibilities to be discharged may be different resulting in different pay scales.

20. Normal principle is that for applicability of concept of "equal pay for equal

wages"" various factors are to be evaluated in cases to be compared

and this exercise must be left to be undertaken by expert bodies. These are not matters where a writ court can lightly interfere, notwithstanding

qualification of B.Sc. (Agriculture) being the basic educational requirement for recruitment to the post of Agriculture Masters in Education

Department for teaching students as also for Agriculture Inspectors (redesignated as Agriculture Development Officers) in Agriculture Department.

21. Parity is sought by Agriculture Masters of Education Department with Agriculture Inspectors (redesignated as Agriculture Development

Officers) in Agriculture Department as also with Agriculture Development Officers (Fodder) in Animal Husbandry & Fisheries Department as also

with Soil Conservation Inspectors (Soil Conservation Officer), Survey/Research Assistant Soil Survey Assistants of Soil and Water Conservation

and Waste Land Development Department.

22. It is a conceded fact that successive Pay Commissions of 1968, 1978 and 1986 never equated these posts. Even the much hyped cabinet

decision of 19.8.1992 repeatedly referred to by counsel for the petitioners had nowhere held the case of Agriculture Masters to be equal with

other posts such as Agriculture Inspectors etc.

23. It is also not disputed that there is no common recruitment for all these posts from where, after selection the selectees are appropriated for

service in different other departments. Even nature of duties of Agriculture Masters and of incumbents of various posts in other departments are

drastically different in structure and functional profile without any semblance of similarity. Merely because Agriculture Inspectors and incumbents of

other posts in other different departments where basic qualification for recruitment is B.Sc. (Agriculture), go to villages and disseminate information

about various methods of improving soil quality and agriculture produce in terms of the policies of the Government, is not a circumstance to take

teaching of students by Agriculture Masters to be of the same type.

24. Working hours, functional profile as also procedure and methods of Agriculture Masters in discharge of their duties are entirely different.

Needless to state that even working hours of Agriculture Masters are far less than the working hours spent by Agriculture Inspectors and

incumbents of other departments. By no means, all these posts may be said to

be identical. Rather, duties are strikingly different and there is no parity among several posts.

25. Work of Agriculture Masters is confined to teaching of the students and to giving practical training to them in the schools whereas Agriculture

Inspectors besides doing office work have to spend a lot of time in the fields providing extension services to the farmers as also in giving them

information about modern technology of farming and right amount of inputs to be used in the field of agriculture. They also provide a feedback

regarding agriculture practices and the reforms required for increasing the agriculture output.

26. In addition to the discussion already made, some more aspects also need to be considered. These are as under:

(i) The petitioner Agriculture Masters and other Agriculture Inspectors are employees of different departments, belonging to different cadres and

are covered by different service rules;

(ii) Kothari Commission reference about which has been made by the petitioners, had nothing to do with the pay scales of Agriculture Inspectors

but had been constituted for revision of pay scales of college/university teachers;

(iii) The petitioners never represented before the proper forum for revision of pay scales. Neither any representation was made to 4th Pay

Commission nor to the anomalies committees constituted thereunder;

(iv) Merely because recommendations regarding pay scales of Agriculture Masters were made by the consultant of the Education Department, the

Government is not bound by the said recommendations as the proper forum for revision of pay scales is the pay commission only;

(v) The benefit of decision of Council of Ministers cannot be extended to the Agriculture Masters of the Education Department as their duties are

different and posts are also not identical;

(vi) Whenever and wherever pay scales of Agriculture Masters had coincided with the pay scales of Agriculture Inspectors, it was not because of

the same qualification having been prescribed for both the posts. These were either incidental or were earned after much of struggle but without

decision of the authorities that there was parity of scales. Even otherwise, there is no order of equating the pay scales of all the employees having

degree of B.Sc. (Agriculture) including the Agriculture Masters and Agriculture Inspectors; and,

(vii) Agriculture Masters have also got future prospects. Rather, it is a conceded fact by now that Agriculture Masters may be considered for

promotion as headmasters if they have acquired qualification of B.Ed. and M.Ed. etc.

Thus, viewed from any angle, there is neither any similarity of work profile, procedures, methods, nature of duties nor of working hours and thus,

there cannot be any parity of pay scales. Consequently, all the three petitions being without any merit are dismissed.