
(2009) 01 P&H CK 0190
In the Punjab And Haryana At Chandigarh

Rajbir Singh and Others

APPELLANT

Vs

Haryana State Electricity Board and Others

RESPONDENT

Date of Decision : 31-01-2009

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2009) 156 PLR 206

Hon'ble Judges : Surya Kant, J;J.S. Khehar, J;Ajay Kumar Mittal, J

Bench : Full Bench

Judgement

J.S. Khehar, J.—There are 12 petitioners in this case. All the petitioners were inducted in the service of the Haryana State Electricity Board (hereinafter referred to as "the HSEB") from September, 1986 to October, 1988, as Assistant Linemen. At the time of their appointment all the petitioners possessed the qualification of matriculation, as well as, two years certificate course of ITI/ Polytechnic. Petitioner No. 11 Rajbir Singh is stated to have died during the pendency of the instant writ petition, whereas, the remaining petitioners are stated to be continuing in the service of the HSEB.

2. It would also be pertinent to notice, that as a result of the issuance of a notification bearing No. S.O.106/H.A.10/98/S/23, 24, 25/98, dated 14.8.1998, the HSEB went through a constitutional change. As a result thereof, the petitioners came to be allocated to the Uttar Haryana Bijli Vitran Nigam (hereinafter referred to as "the UHBVN").

3. At the time of appointment of the petitioners as Assistant Linemen, they were placed in the unrevised pay scale of Rs. 350-600, with a selection grade of Rs. 400-700 for 20% of the posts. Consequent upon the revision of the pay scales introduced in the HSEB through Circular No. 1 (Revision of Pay Scales)-Office Order No. 384/Finance, dated 19.8.1987 the pay scale of Assistant Linemen was revised to Rs. 800-1150. The pay scales of Assistant Linemen was again revised to Rs. 825-1300 with effect from 1.1.1986 through Circular No. 391 (Revision of Pay Scales)-Office Order No. 391/Fi-nance, dated 2.11.1987.

4. Assistant Linemen working in the HSEB/UHBVN were aggrieved by the fact that they had been placed in the pay scale of Rs. 825-1300 with effect from 1.1.1986. They accordingly made representations to the authorities through their Unions/Associations/ Federations including the HSEB Technical Employees Union. So as to examine the representations made by various sections of the employees of the HSEB/UHBVN, a Committee was constituted, through an office order dated 19.1.1989. It is the case of the petitioners that the aforesaid Committee found merit in the claims raised on behalf of the Assistant Linemen, and accordingly, recommended that the pay scale of Assistant Linemen be modified from Rs. 825-1320 to Rs. 1200-2040, with effect from 1.5.1990. It is pointed out that the aforesaid recommendation was implemented for the cadre of Assistant Linemen through Circular No. 66 (Revision of Pay Scales)-Office Order No. 511/Finance dated 7.2.1991 (Annexure-P3).

5. Although the cadre of Assistant Linemen was granted the pay scale of Rs. 1200-2040 in consonance with the demand made by Assistant Linemen (including the petitioners), the grievance raised by the petitioners through the instant writ petition is, that the aforesaid scale of pay should have been released to the petitioners with effect from 1.1.1986 as per their claim, and not prospectively with effect from 1.5.1990. It is the claim of the petitioners that the HSEB/UHBVN had impliedly acknowledged that the pay scale of Rs. 825-1300 released to Assistant Linemen was anomalous/defective, by accepting that they were entitled to the scale of Rs. 1200-2040. According to the petitioners, an anomaly/defect is liable to be corrected/ rectified with effect from the date when the anomaly/defect had arisen. Otherwise, according to the petitioners, the petitioners will be deemed to have been paid salary for the period from 1.1.1986 to 1.5.1990 under an incorrect/defective pay scale. It is also the case of the petitioners that it is a settled proposition of law that an anomaly has to be removed from the date it had arisen, rather than, from any subsequent date prospectively. The demand of the petitioners, therefore is, that they should be released the benefit of the pay scale of Rs. 1200-2040 with effect from 1.1.1986.

6. The instant petition along with 22 other connected civil writ petitions were allowed by a Division Bench of this Court through a common order dated 29.1.1999. While allowing the instant writ petition, the Division Bench based its decision on a number of considerations, details whereof have been summarised by us as under:

Firstly, reliance was placed on an earlier decision rendered by this Court in *Shyam Sunder and Ors. v. Haryana State Electricity Board and Ors.* C.W.P. No. 13360 of 1996, decided on 22.9.1997 wherein, the same claim relating to the cadre of Assistant Linemen had been adjudicated upon by this Court, and wherein the plea that "...Once the claim of the pay parity has been granted to the petitioners, there is no reason to assign different dates/ for its effect. The revised pay scale should be given from the same date, as in the case of other categories of employees. The petitioners' contention is that the revised pay scale

given from May 1, 1990 instead of January 1, 1986 is the result of discrimination and arbitrariness...was accepted by this Court.

Secondly, the Division Bench while disposing of the instant writ petition also placed reliance on the fact, that a petition for Special Leave to Appeal, filed against the judgment rendered by this Court in Shyam Sunder's case (supra), had been dismissed by the Supreme Court on 9.2.1998.

Thirdly, this Court while disposing of the instant writ petition on 29.1.1999 had recorded a categorical finding to the effect that the judgment rendered by this Court in Shyam Sunder's case (supra) had been implemented by the HSEB/UHBVN, and as such, the same relief which was allowed by the respondents to others similarly situated as the petitioners herein, should be granted to the petitioners as well.

Fourthly, it was noticed that a Division Bench of this Court in Jai Parkash and Ors. v. State of Haryana and Ors. C.W.P. No. 1804 of 1996, decided on 20.4.1997 had adjudicated upon an identical claim, as had been raised by the petitioners in the instant case in respect of the cadre of Assistant Linemen, for the cadre of Pump Operators/Electricians wherein this Court had granted the employees of the aforesaid cadres the revised pay scales with effect from 1.1.1986, instead of 1.5.1990, in consonance with the action of the State of Haryana.

And; Fifthly, the Division Bench while allowing the instant writ petition had found that the plea of arbitrariness and discrimination raised on behalf of the petitioners had not been assailed by the respondents, as nothing at all had been pointed out to show why the modified scale suggested by the Committee, was not made applicable from 1.5.1990, and that, an imaginary date was made applicable for the grant of the enhanced scale.

Accordingly, the instant writ petition came to be disposed of in the same terms as the judgment rendered in Jai Parkash's case (supra).

7. Dissatisfied with the order passed by this Court on 29.1.1999, the respondents approached the Apex Court, challenging the order passed By the Division Bench in the instant Civil Writ Petition, as also the connected Civil Writ Petitions. While setting aside the order passed by this Court on 29.1.1999, the Apex Court in its order dated 8.10.2002, inter alia, noticed:

We deem it proper to set aside the order of the High Court and remit the matter back to the High Court for determining the issue raised on merits afresh and if necessary differ with the earlier view in Shyam Sunder's case. Needless to-say if there is such difference of opinion, the High Court would have to refer the issue to a larger Bench for a resolution of such conflict. It is also advisable in the light of the fact that such a large number of employees are involved and such a vast number of cases have been filed that all the matters are tagged together, but the appeal may be heard and disposed of treating the present Writ Petition which is the subject matter of the present appeal namely, Haryana State Electricity Board

v. Rajbir Singh and Ors., as the main case

As it has been stated by the learned Counsel appearing for the respondents that the Writ Petition may need amendment since the Writ Petition had been filed solely on the basis of Shyam Sunder's case decision, the respondents will be at liberty to file further pleadings before the High Court, as they may be advised and the High Court may deem fit. There will be no order as to costs.

In furtherance of the directions issued by the Apex Court, the matter came up for consideration for the first time before this Court on 5.12.2007. The Division Bench before which the instant writ petition came up for consideration required the same to be placed before Hon'ble the Chief Justice for constitution of a Full Bench. It is, therefore, that the instant Full Bench came to be constituted.

8. To propound the proposition, that an anomaly has to be redressed retrospectively i.e., with effect from the date when the anomaly had arisen, learned Counsel for the petitioners invited our attention to the decisions rendered by Division Benches of this Court in *Ram Murti and Ors. v. State of Haryana* and Ors. C.W.P. No. 15920 of 1995, decided on 13.2.1996, *Jai Parkash and Ors. v. State of Haryana* and Ors. C.W.P. No. 1804 of 1994, decided on 24.4.1997, *Shyam Sunder and Ors. v. Haryana State Electricity Board* and Anr. C.W.P. No. 13360 of 1996, decided on 22.9.1997, *Papinder Vir Singh and Ors. v. State of Punjab* and Ors. C.W.P. No. 9122 of 1999, decided on 11.1.2000, *Rajbir Singh and Ors. v. State of Haryana* and Ors. C.W.P. No. 16789 of 1997, decided on 20.2.2001, *Gujjar Singh and Ors. v. The Chairman, PRTC, Patiala* C.W.P. No. 1667 of 1998, decided on 13.7.2005 and *Krishan Lal and Ors. v. Central Administrative Tribunal, Chandigarh* and Anr. C.W.P. No. 6706/CAT/2005, decided on 23.4.2008. It is not necessary for us to examine sequentially all the judgments relied upon for the proposition of law enunciated therein. Suffice it to state, that we have painstakingly gone through the judgments referred to by the learned Counsel for the petitioners, and have arrived at the conclusion, that in none of the judgments on which the reliance has been placed, the proposition of law canvassed by the learned Counsel for the petitioners, namely, that in cases of rectification of an anomaly, arising during revision of pay scales, the anomaly has to be corrected with effect from the date the anomaly had arisen, has been propounded.

9. Irrespective of our aforesaid determination (on a perusal of the judgments relied upon by the learned Counsel for the petitioners), we have no hesitation to uphold the submission advanced by the learned Counsel for the petitioners, so as to conclude, that in case of an anomaly, which had arisen during the revision of pay scales, the correction thereof, to be with effect from the date when the anomaly had arisen. In other words, if a pay scale wherein the anomaly had arisen was released from 1.1.1986, it is bound to be corrected from 1.1.1986, and not with effect from the date when the anomaly was discovered, or prospectively with effect from a date of the choice of the employer. Even the learned Counsel for the respondents acknowledges the correctness of the

aforesaid proposition. The basis of our conclusion recorded hereinabove arises out of a simple premise. Once it is acknowledged that a mistake has been committed, whereby an anomaly has arisen, the mistake has to be remedied in such a manner, that the aggrieved party does not have any adverse effect of the mistake/anomaly. This would be possible if an anomaly in pay scales is corrected retrospectively with effect from the date when the anomalous pay scale was introduced. On the other hand, if the mistake/anomaly is corrected from a future date, the concerned individual will have to suffer the effect of the anomaly, from the date it had arisen, till the date it was remedied. The latter determination would be iniquitous and unacceptable in law as it would not be able to stand the test of Article 14 of the Constitution of India, which postulates equality before the law and equal protection of the laws.

10. Learned Counsel for the respondents, however, in order to repudiate the submission advanced by the learned Counsel for the petitioners, vehemently contends, that it is incorrect to assume that there was any anomaly in the pay scale of cadre of Assistant Linemen, when the pay scale of Assistant Linemen was revised from Rs. 825-1300 to Rs. 1200-2040. It is also the vehement contention of the learned Counsel for the respondents, that the petitioners had failed to establish that the Committee Constituted by the HSEB/UHBVN to examine the grievances of the cadre of Linemen had recorded any finding to the effect that there was an anomaly in the pay scale of Assistant Lineman determined at Rs. 825-1300 with effect from 1.1.1986. It is, therefore, the vehement contention of the learned Counsel for the respondents, that the petitioners were themselves under a mistaken belief, and accordingly had projected their mistaken belief to this Court, that the committee had in any manner concluded that the pay scale released to Assistant Lineman fixed at Rs. 825-1300 with effect from 1.1.1986 was anomalies. It is also the pointed contention of the learned Counsel for the respondents, that the recommendation made by the Committee constituted on 19.1.1989 was not on the basis of an anomaly in the pay scale of Rs. 825-1300 but on consideration of independent issues canvassed on behalf of the cadre of Assistant Lineman.

11. In the background of the submission advanced by the learned Counsel for the respondents, it is imperative for us, in the first instance, to determine, whether or not the Committee constituted on 19.1.1989 by the HSEBAJHBVN, was constituted only for the purpose of examining anomalies in pay scales revised by the HSEB with effect from 1.1.1986, or whether it was also required to examine allied issues pertaining to pay scales (even in the absence of any anomaly). If the answer to the aforesaid is, that the Committee was constituted to examine allied issues in respect of pay scales besides anomalies, then to determine whether the enhancement of the pay scale of Rs. 825-1300 earlier released to Assistant Lineman to Rs. 1200-2040, was as a result of the correction/rectification of a mistake/anomaly, or for a reason independent thereof. We shall thereafter be in an effective position to deal with the proposition canvassed by the rival parties.

12. In order to determine the issue(s) pointed out in the preceding paragraph, learned Counsel for the respondents has invited our attention to a compilation of documents handed over to us (in furtherance of an order passed by the Division Bench on 5.12.2007) and which were taken on the record of this case by us as Annexure A. In the first instance our attention was invited to Office Order No. 437/Finance dated 19.1.1989, vide which the Committee under reference was constituted. Relevant extract of the aforesaid office order is being reproduced hereunder:

The Haryana State Electricity Board is pleased to constitute a Committee comprising of the following officers to examine all the anomalies and pending demands of various Unions/Association/individuals in respect of Pay scales revised w.e.f. 1.1.1986 including grant of Time bound Pay Scales:

1. Chairman HSEB Chairman of the Committee. 2. Members Finance Accounts & Commercial HSEB Member 3. Member Technical (OP) HSEB Member 4. Secretary Board Member Secretary 5. C.E. Commercial, HSEB Invitee 6. FA/Hqrs. HSEB Invitee XX XX XX XX XX XX XX XX XX.

According to the learned Counsel for the respondents a perusal of the Office order (extracted above) by which the Committee was constituted (which eventually recommended the pay scale of Rs. 1200-2040 for the cadre of Assistant Lineman with effect from 1.5.1990) clearly reveals, that the Committee was constituted for examining firstly, "anomalies" of pay scales and secondly, "pending demands" of various Unions/Associations/Individuals, in respect of pay scales. According to the learned Counsel for the respondents, it is clear, that the Committee which made the recommendation that Assistant Lineman, should be allowed the pay scale of Rs. 1200-2040 with effect from 1.5.1990, was required to look into matters pertaining to "anomalies" as well as, "pending demands" in respect of pay scales. It is, therefore, submitted that it would be incorrect to infer that the Committee under reference was constituted only to examine anomalies in pay scales (while implementing the revised pay scales).

13. We have given out thoughtful consideration to the submission advanced by the learned Counsel for the respondents. We are fully satisfied that the Committee constituted on 19.1.1989 was not only required to examine "anomalies" in the revised pay scales, released to the employees of the HSEB/UHBVN with effect from 1.1.1986 but was also required to make recommendations on "pending demands" of unions/associations/individuals in respect of pay scales. It would be pertinent to notice, that the learned Counsel for the petitioners while responding to the submissions advanced on behalf of the respondents, did not assail the correctness of the submission advanced on behalf of the respondents. In view of the above, the first query posed in paragraph 11 above, has been answered in a manner which will require us also to decide the second query posed therein. In the following paragraph, we have considered the submission of the learned Counsel, on the second query.

14. Learned Counsel for the respondents while assisting us on the second query, in the first instance, invited our attention to circular No. 1 (Revision of Pay scales)-Office order No. 384/Finance dated 19.8.1987, whereby the pay scale of Assistant Lineman was revised from Rs. 350-600 to 800-1150 with effect from 1.1.1986. Learned Counsel for the respondents then invited our attention to circular No. 391 (Revision of Pay scales)-Office Order No. 391/Finance dated 2.11.1987 whereby the pay scale of Assistant Lineman which had been fixed at Rs. 800-1150 with effect from 1.1.1986, was again revised to Rs. 825-1300 with effect from 1.1.1986. It is the vehement contention of the learned Counsel for the respondents, that an anomaly had indeed been found in the pay scale of Assistant Lineman when their pay scale was revised to Rs. 800-1150, and that, the same was corrected/rectified by allowing Assistant Lineman the pay scale of Rs. 825-1300 with effect from 1.1.1986. It is submission of the learned Counsel for the respondents, that since an anomaly had been detected in the revised pay scale (Rs.825-1300), it was liable to be corrected/rectified with effect from the date when the anomaly had arisen. As such, after the aforesaid anomaly/mistake was identified, the pay scale of Rs. 825-1300, was released to Assistant Lineman with effect from 1.1.1986 i.e. the date with effect from which the mistake/anomaly had occurred. According to the learned Counsel for the respondents, the HSEB/UHBVN, was mindful of the proposition of law, that an anomaly had to be corrected with the effect from the date of its occurrence, and as such, had unilaterally released the pay scale of Rs. 825-1300 to Assistant Lineman with effect from 1.1.1986, after identifying the anomaly.

15. In contra distinction to the factual position noticed in the foregoing paragraph, it is the contention of the learned Counsel for the respondents, that the committee under reference, while recommending the pay scale of Rs. 1200-2040 to Assistant Lineman with effect from 1.5.1990 had done so not because of an existing "anomaly" but on the basis of a representation made by the employee Unions/Associations/Federations including the HSEB Technical Employees Union on behalf of Assistant Lineman, claiming the pay scale released to a category of employees holding "Technical Posts" under the State of Haryana. In this behalf, learned Counsel for the respondents has invited our pointed attention to the impugned order dated 7.2.1991 (Annexure P-3), relevant portion whereof is being extracted hereunder:

Sr. No.	Name of Post	Existing Pay Scale	Modified Scale	Remarks w.e.f. 1.1.1986
w.e.f. 1.5.90	1	2	3	4
	5	2.	Technical posts for which minimum qualification prescribed is Matric with I.T.I. Certificate/Polytechnic	(i) xx xx xx xx (ii) A.L.M. 825-1300 1200-2040 Recruitment to Non-Matric be stopped. (iii) to (x) xx xx xx

It is the vehement contention of the learned Counsel for the respondents that the State Government had clubbed a number of posts under the head "Technical Posts", and had granted all the posts clubbed together as "Technical Posts", the pay scale of Rs. 1200-2040. It is pointed out that the State of Haryana had clubbed together as "Technical posts" such posts for which the prescribed educational qualifications for direct recruitment were, matriculation with

certificate in ITI/Polytechnic. It is the submission of the learned Counsel for the respondents that Matriculation was not one of the qualifications prescribed for the post of Assistant Lineman at the time of revision of pay scales with effect from 1.1.1986, and as such, Assistant Lineman employed with the HSEB/UHBVN could not have been granted the benefit of pay which was ordered to be released to "Technical Posts" by the State of Haryana. According to the learned Counsel for the respondents before the pay scale released to "technical Posts" could be extended to Assistant Lineman, employed under the HSEB/UHBVN, parity in the qualifications for recruitment was a prerequisite condition. As such, when the Committee under reference made its recommendations on 7.2.1991 (Annexure P-3) it expressly incorporated the condition, that further recruitment of non-matriculate candidates for appointment as Assistant Lineman would be stopped. It is, therefore, the contention of the learned Counsel for the respondents, that the pay scale of Rs. 1200-2040, was released to the cadre of Assistant Lineman not as a matter of rectification of an anomaly, but as a consequence of revising the qualifications for recruitment to the cadre of Assistant Lineman, so as to bring it at par with "technical Posts" under the State of Haryana.

16. We have given our thoughtful consideration to the submissions advanced by the learned Counsel for the respondents, as have been noticed hereinabove. The aforesaid submissions have emerged from documents relied upon by the learned Counsel for the respondents. The genuineness of the documents relied upon by the learned Counsel for the respondents, is not a matter of dispute at the hands of the petitioners. In fact, during the course of hearing, learned Counsel for the petitioners did not advance any submission whatsoever in respect of the issue dealt with in the preceding paragraph. Having perused the documents relied upon by the learned Counsel for the respondents, we have no hesitation whatsoever in concluding that when the pay scale of Assistant Lineman was revised from Rs. 350-600 (with the selection grade of Rs. 400-700 for 20% of the posts) to 800-1150 the respondents accepted to modify the revised pay scale of Rs. 800-1150 to Rs. 825-1300 with effect from 1.1.1986, as a consequence of the identification of an anomaly in the pay scale of Rs. 800-1150. However, the representations made by the cadre of Assistant Lineman, through their Union/Associations/ Federations including the HSEB Technical Employees Union, against the pay scale of Rs. 825-1300, were accepted by the Committee constituted by the HSEB/UHBVN, so as to give the benefit granted by the State of Haryana to "Technical Posts" under the State Government. If the posts of Assistant Lineman in the HSEB/UHBVN could have been equated with "Technical Posts" as on 1.1.1986 there may have been some substance in the submission made by the learned Counsel for the petitioners. We have, however, no hesitation in concluding that the posts of Assistant Lineman in the HSEB/UHBVN could not be treated to fall in the category of "Technical Posts" as on 1.1.1986. This conclusion of ours is based on the fact, that the State Government had classified only such posts as "Technical Posts" wherein, the educational qualifications for appointment by way of direct recruitment was Matriculation with certificate in ITI/Polytechnic.

The posts of Assistant Lineman in the HSEB/UHBVN did not postulate the qualification of Matriculation as a pre-condition by way of direct recruitment for the posts of Assistant Lineman, as on 1.1.1986 i.e. the date with effect from which the petitioners are presently seeking the revision. As such, it is not possible for us to conclude that the cadre of Assistant Lineman in the HSEB/UHBVN could claim to fall within the posts clubbed together as "Technical posts" or could claim parity with "Technical Posts" under the State of Haryana as on 1.1.1986.

17. The impugned order dated 7.2.1991 which allowed the cadre of Assistant Lineman the pay scale of Rs. 1200-2040 clearly notices the revision of their scale with effect from 1.5.1990 consequent upon the modification of the qualifications for recruitment to the cadre of Assistant Lineman by introducing the qualification of Matriculation, as a pre-condition for appointment to the said cadre. In view of the above, it is natural to infer that the HSEB/UHBVN adopted a two-steps procedure while accepting the representation of the cadre of Assistant Lineman in the HSEB/UHBVN. The first step envisaged the upward revision of the educational qualifications prescribed for direct recruitment to the cadre of Assistant Lineman in the HSEB/UHBVN. The said first step was aimed at raising the level of the cadre of Assistant Lineman in the HSEB/UHBVN. To that of "Technical Posts" under the State of Haryana. The second step was a natural corollary to the first step. Once the cadre of Assistant Lineman in the HSEB/UHBVN had been upgraded, so as to be equated with "Technical Posts" under the State of Haryana, they could be allowed parity in terms of pay scales as well. Accordingly, having taken to first step by upgrading the qualification prescribed for recruitment to the post of Assistant Lineman in the HSEB/UHBVN, the respondents allowed the cadre of Assistant Lineman the pay scale released to "Technical Posts" by the State of Haryana. Since the upgradation of the posts was only prospective, inasmuch as, future recruitment of non-matriculates was stopped, the posts of Assistant Lineman in the HSEB/UHBVN could be deemed to have been upgraded to the level of "Technical Posts" only prospectively. Thereafter, the second step was taken to prospectively grant Assistant Lineman in the HSEB/UHBVN the pay scale of "Technical Posts" i.e. the pay scale of Rs. 1200-2400 with effect from 1.5.1990. It is, therefore, not possible for us to accept the submission advanced by the learned Counsel for the petitioners to the effect that the pay scale of Rs. 1200-2040 was released to the cadre of Assistant Lineman in the HSEB/UHBVN as a consequence of the rectification of anomaly in the revised pay scale of Rs. 825-1300. Through our determination hereinabove, the very basis of the claim of the petitioners stands knocked out.

18. In spite of the conclusion recorded by us in the foregoing paragraph, we still have one obligation to discharge, namely, to determine the veracity of the submission advanced by the learned Counsel for the petitioners, that the HSEB/UHBVN had arbitrarily chosen 1.5.1990, as the date for introduction of the pay scale of Rs. 1200-2040 for the cadre of Assistant Lineman. Having perused the documents referred to by the learned Counsel for the respondents and having

recorded our conclusions hereinabove to the effect that the pay scale of Rs. 1200-2040 was introduced for the cadre of Assistant Lineman in the HSEB/UHBVN, after the qualifications for direct recruitment to the cadre of Assistant Lineman was revised, so as to introduce the qualification of Matriculation as a pre-requisite qualification for appointment to the post of Assistant Lineman, we are of the view that the date chosen by the HSEB (1.5.1990) to introduce the pay scale of Rs. 1200-2040 for the cadre of lineman cannot be treated to be arbitrary. The pay scale under reference could only be introduced after the qualifications for direct recruitment for the cadre of Assistant Linemen were brought at par with "Technical Posts" under the State of Haryana. Having done so by taking first step, noticed hereinabove, the issue of allowing the pay scale of Rs. 1200-2040 to Assistant Lineman in the HSEB/UHBVN became a possibility, for the first time. It is, therefore, that the HSEB/UHBVN released to pay scale of Rs. 1200-2040 to Assistant Lineman in the HSEB/UHBVN with effect from 1.5.1990. In view of the above, it is not possible for us to accept the submission advanced at the hands of the learned Counsel for the petitioners, that the date 1.5.1990 chosen by the HSEB/UHBVN for introduction of the pay scale of Rs. 1200-2040 for Assistant Linemen was arbitrary in any manner whatsoever.

19. In view of the conclusion drawn in the foregoing paragraph, we find no merit in the claim of the petitioners that they are entitled to the benefit of the pay scale of Rs. 1200-2040 with effect from 1.1.1986 as against 1.5.1990 (i.e. the date with effect from which the said pay scale has been released to them).

20. Although we have already adjudicated upon the claim raised by the petitioners on merits, it is also essential for us to record the reasons for not accepting the conclusions drawn by a Division Bench of this Court while disposing of the instant writ petition on 29.1.1999. Ordinarily, we would have been bound by the decision rendered by this Court in *Shyam Sunder and Ors. v. Haryana State Electricity Board and Anr.* C.W.P. No. 13360 of 1996, decided on 22.9.1997 specially when a petition for Special Leave to Appeal filed against the judgment rendered by this Court in *Shyam Sunder's* case (*supra*) had been dismissed by the Supreme Court. The aforesaid binding effect of the judgment rendered by this Court in *Shyam Sunder's* case (*supra*) stands negated with the order passed by the Supreme Court on 8.10.2002 consequent upon the filing of a petition for Special Leave to Appeal against the order passed by the Division Bench of this Court disposing of the instant writ petition on 29.1.1999 (relevant part whereof has been extracted in paragraph 7 hereinabove). We are also of the view, that this Court had erroneously arrived at the conclusion that the denial of the pay scale of Rs. 1200-2040 was as a consequence of an anomaly. While disposing of the instant writ petition at an earlier juncture the claim of the petitioners was accepted on the basis of parity. On the basis of conclusion drawn from a large number of documents referred to by the learned Counsel for the respondents, we have arrived at the conclusion, that the claim of the petitioners on the basis of parity could not have been determined with reference to 1.1.1986 as the cadre of Assistant Lineman in the HSEB/UHBVN could not be granted the benefit of

parity with "Technical Posts" under the State of Haryana, with effect from 1.1.1986. The issue of parity with "Technical Posts" under the State of Haryana could have been raised only after the qualifications for direct recruitment to the cadre of Assistant Linemen in the HSEB/UHBVN were modified after the introduction of Matriculation (besides the other prescribed qualifications) as a pre-requisite qualification, for appointment to the cadre of Assistant Linemen. It is only thereupon, that the claim of parity could have been raised on behalf of the cadre of Assistant Linemen in the HSEB. When the aforesaid situation of parity became a reality, the HSEB/UHBVN released the pay scale of Rs. 1200/2040 to Assistant Linemen in the HSEB/UHBVN with effect from 1.5.1990. We are also of the view, that no reliance can be placed on the decision rendered by a Division Bench of this Court in *Jai Parkash and Ors. v. State of Haryana and Ors.* C.W.P. No. 1804 of 1994, decided on 24.4.1997 for the determination of the present controversy, as the issue adjudicated in the aforesaid writ petition pertained to the pay scale(s) of Pump Operators/Electricians. It was not the case of the petitioners before this Court during the course of hearing, that the controversy settled by this Court while disposing of *Jai Parkash's* case (*supra*) is akin, to the one adjudicated upon during the course of the instant deliberation. We are also satisfied that there was sufficient justification for releasing the pay scale of Rs. 1200-2040 to the cadre of Assistant Linemen with effect from. 1.5.1990. This conclusion has been recorded by us while debating the assertion at the hands or the petitioners, whether the instant scale of pay has been released to the petitioners arbitrarily with effect from 1.5.1990 (in paragraph 17 above). For the reasons recorded hereinabove, we are of the view that the observations, and the conclusions recorded by this Court in its order dated 29.1.1999 while allowing the present writ petition, cannot be treated as a sufficient justification for not recording a view different from the conclusion recorded earlier. Dismissed in the aforesaid terms.