
(2010) 11 SHI CK 0065
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 4868 of 2008

Surveyors Association and Others

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 29-11-2010

Acts Referred:

Citation : (2010) 11 SHI CK 0065

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

V.K. Sharma, J.—The Petitioner No. 1 herein is an Association representing the Surveyors working in the Department of Agriculture, Himachal Pradesh. The remaining two Petitioners were at the relevant time working as Surveyors in the said department. The grievance raised by the Petitioner is precisely that in the grant of pay scales they have been discriminated against in relation to their counter-parts working in the Department of Industries, Himachal Pradesh. The comparative pay scales as applicable during the period 1.1.1968 to 1.1.1986 have been mentioned in para 6 (a) of the petition as below:

a) Deptt. of Industries Deptt. of Agriculture 1.1.68 200-450 140-300 1.1.78
570-1080 450-800 1.1.86 1500-2640 1200-2100 1640-2925 1800-3200 (Sr.
Scale) (Sr. Scale after 12 yrs.) 2. An additional ground in support of their claim for higher pay scale is that though their counter-parts working in the Department of Agriculture in the State of Punjab were also getting pay scales similar to them on the basis of which they have been discriminated against, yet since they successfully took the matter to the Hon"ble Punjab & Haryana High Court by way of CWP No. 650 of 1984, titled Balbir Singh Bhail v. The Secretary-cum-Commissioner, Government of Punjab, Finance Department Chandigarh and Ors. CWP No. 650 of 1984, Annexure A-4, decided on 27.7.1993.

3. On the above averments, the petition has been filed on the following prayers:

7(a). That the Respondents may be directed to grant to the applicants the pay scale of Rs. 570-1080 w.e.f. 1.4.1984 and Rs. 1500-2640 w.e.f. 1.1.86 following the Punjab pattern of pay scales as also on the principles of "equal pay for equal work" in-as-much as they are entitled to the said pay scales on the analogy of their counter-parts in the Department of Industries in Himachal Pradesh.

(b). That the applicants may be held entitled to all consequential benefits as a result of relief at (a) (supra) including arrears of salary on account of fixation of their pay in the revised pay scales w.e.f due dates.

(c). That as a result of relief at (a) (supra), the applicants may be further held entitled to corresponding revision of pay scales in the further revision of pay scales from time to time.

4. In the reply filed on behalf of Respondents No. 1 to 3, the following stand has been taken, vide paras No. 6 (5), 6 (8) and 6 (9):

6 (5). Admitted to the extent that the Himachal Pradesh follows Punjab pattern in the matter of pay scale of its employees. But the pay scale pattern of the corresponding post of the respective departments is taken into account i.e. pay scale of the post of the Agriculture Department in Himachal Pradesh are revised in view of pay scale of the same categories of posts in the Agriculture/Soil Conservation Department of the Punjab Govt. The State Govt. has not received any copy of the enhancement of the pay scale of the posts of Surveyors in the Agriculture/Soil Conservation Department from the Govt. of Punjab and therefore cause of action has not at all arisen for the enhancement of pay scale for the post of Surveyor in the Agriculture Department in H.P. 6 (8&9). The contents of these paras are untenable and assailed. The applicants are relying upon the judgment Annexure A-4 which is not applicable and no relief can be granted. Even the Punjab Govt. has not made any revision to the category of Surveyor as a whole except released the benefits to the Petitioners only which is too subject to the condition that in the event the Govt. succeeding in LPA No. 906 of 1993 filed against the judgment (Annexure A-4) the benefit shall be refunded to the Govt. as is evident from the letter No. 4/9/95-1-Agr.III- 7105 dated 8-5.95 from Punjab Govt. a copy of which is annexed as Annexure R-I. Thus the applicants are not entitled to the benefits as claimed. In as much as parlance is made to the case Union of India and others Vs. Makhan Chandra Roy, Union of India and others Vs. Makhan Chandra Roy, .

5. The learned Counsel for the Petitioner has submitted at the very outset that once the Respondent-State has granted higher pay scales for Surveyors in the Department of Industries whose qualifications, method of recruitment and nature of duties are identical, it cannot deny the equivalent pay scales to the Petitioners-Surveyors working in the Department of Agriculture only on the ground that pay scales applicable to their counter-parts in the State of Punjab have been made applicable to them and more so in view of the aforesaid judgment dated 27.7.1993, Annexure A-4 rendered by the Hon'ble Punjab & Haryana High Court,

whereby the Petitioners-Surveyors therein have been held to be entitled for grant of higher pay scales on and w.e.f. 1.4.1984. The learned Counsel further submits that even if it is admitted for a moment for the sake of argument that though the State of Himachal Pradesh is following Punjab pay scales as a matter of principle and policy, yet it being a sovereign State is not bound to follow the State of Punjab as a blind follower, the controversy involved in the present case is no more *res integra* in view of the judgment rendered by the learned Single Judge of this Court in *Rameshwar Thakur and Ors. v. State of H.P. and Ors.* Latest HLJ 2009 (2) (HP) 1466, whereby the point in controversy has been succinctly set at rest vide para 9 of the judgment which lays as under:

The pay scales adopted by the State of Himachal Pradesh on Punjab pattern should also pass the test of reasonableness. The State while adopting/ implementing the pay scales of the State of Punjab should ensure due application of mind to shun arbitrariness and unreasonableness. The State of Himachal Pradesh is under no obligation to blindly follow and allow the pay scales to its employees as applicable in the State of Punjab. The State of Himachal Pradesh is a sovereign state and must discharge its duties expected to be discharged by the sovereign State. (see: *State of Himachal Pradesh Vs. Shri. P.D. Attri and Others*, . The State Government being the principal employer should ensure that the pay scales are fixed on the basis of qualifications prescribed under the Recruitment and Promotion Rules after taking into consideration the duties discharged by the employees etc. It can always deviate in case arbitrariness results while implementing the pay scales adopted from the State of Punjab.

6. In view of the above, the petition is allowed with a direction to Respondent No. 1 to grant to the Surveyors working in the Department of Agriculture, H.P. the pay scale of Rs. 570-1080 w.e.f. 1.4.1984 as revised from time to time along with consequential benefits which shall be restricted to three years prior to filing of the Original Application (O.A.) before the erstwhile H.P. State Administrative Tribunal on 28.1.1998 in view of the law laid down by the Hon"ble Supreme Court in *Shiv Dass Vs. Union of India (UOI) and Others*, within six months from today failing which interest at the rate of 9% per annum shall also be payable.

7. The petition stands disposed of in the above terms, so also the pending application(s), if any.