

(2025) 12 P&H CK 0024

Punjab And Haryana HC

Case No: Civil Writ Petition No. 21322 Of 2021

Kesar Singh And Others

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision: Dec. 12, 2025

Acts Referred:

- Constitution Of India, 1950-Article 14, 16, 39(d), 226, 227

Hon'ble Judges: Namit Kumar, J

Bench: Single Bench

Advocate: R.K. Arya, Satnampreet Singh Chauhan

Final Decision: Dismissed

Judgement

Namit Kumar, J

1. The petitioners have invoked the writ jurisdiction of this Court by filing the instant petition under Articles 226/227 of the Constitution of India, seeking a writ of certiorari for quashing the order dated 04.08.2021 (Annexure P-5) passed by respondent No.2, whereby the claim of the petitioners for grant of pay scale at par with the posts of Clerks has been rejected. Further, seeking a writ of mandamus, directing the respondents to rectify the anomaly in the pay scale of the petitioners viz a viz the Clerks and pay the arrears of revised pay, conveyance allowance along with special pay w.e.f. 01.12.2011, with interest @ 18% per annum.

2. The brief facts, as have been pleaded in the petition, are that the petitioners joined the respondent-Department i.e. Hospitality Department, Civil Secretariat, Punjab, Chandigarh as Mates (Class IV) and they were further promoted to the posts of Cook/Butler/Halwai and petitioner No.12 was further promoted to the post of Steward. Their service particulars, as given in para 2 of the petition, are as under :-

| Sr. No. | Name | Working Place | Date of Appointment | Promoted as Cook/ Halwai/ Butler | Promoted as Steward |
|----------------|-----------------|--|----------------------------|---|----------------------------|
| 1. | Kesar Singh | Mini Secretariat, Sector-9, Chandigarh Civil | 10.01.1986 | 1995 | - |
| 2. | Man Singh | Secretariat Punjab, Chandigarh Civil | 11.1986 | 1995 | - |
| 3. | Suram Chand | Secretariat Punjab, Chandigarh Punjab | 02.12.1993 | 20.08.2007 | - |
| 4. | Kuldeep Singh | Bhawan, Sector-3, Chandigarh Punjab | 04.03.1987 | 11.2020 | - |
| 5. | Khasti Ballabh | Bhawan, Sector-3, Chandigarh Civil | 01.07.2011 | 02.2020 | - |
| 6. | Babu Ram | Secretariat Punjab, Chandigarh Civil | 1994 | 2003 | - |
| 7. | Salinder Singh | Secretariat Punjab, Chandigarh MLA | 01.1994 | 01.2016 | - |
| 8. | Subhash Chander | Hostel, Sector-4, Chandigarh MLA | 01.06.1995 | 2015 | - |
| 9. | Sandeep Barua | Hostel, Sector-4, Chandigarh | 03.03.1992 | 2018 | - |

| | | | | | |
|-----|----------------|---|------------|------------|---------|
| 10. | Sohan Lal | Punjab Bhawan, Sector-3, Chandigarh Punjab | 04.03.1987 | 24.09.2018 | - |
| 11. | Nandan Singh | Bhawan, Sector-3, Chandigarh Punjab | 04.03.1987 | 2016 | - |
| 12. | Narinder Singh | Bhawan, Sector-3, Chandigarh Mini | 26.02.1988 | 2012 | 09.2018 |
| 13. | Durga Dass | Secretariat, Sector-9, Chandigarh Punjab | 22.05.1984 | 2003 | - |
| 14. | Ranjeet Kamat | Bhawan, Sector-3, Chandigarh Mini | 01.07.2011 | 2019 | - |
| 15. | Karam Chand | Secretariat, Sector-9, Chandigarh Mini | 01.1994 | 2015 | - |
| 16. | Gurnam Singh | Secretariat, Sector-9, Chandigarh Vidhan Sabha, | 07.2011 | 08.2019 | - |
| 17. | Anil Kumar | Chandigarh MLA | 1995 | 08.2006 | - |
| 18. | Shankar Lal | Hostel, Sector-4, Chandigarh Civil | 02.04.1991 | 2018 | - |
| 19. | Satpal | Secretariat Punjab, Chandigarh | 20.06.1995 | 08.2014 | - |

| | | | | | |
|-----|--------------|--|------------|------------|---|
| 20. | Vijay Singh | Punjab Bhawan, Sector-3, Chandigarh Punjab Circuit | 05.06.1995 | 12.12.2017 | - |
| 21. | Kalam Singh | House, Jallandhar, Punjab Chandigarh Cedar Circuit | 01.05.1996 | 12.2017 | - |
| 22. | Naresh Kumar | House, The Mallroad, Shimla, Himachal Pradesh | 1988 | 03.2015 | - |
| 23. | Chucha Singh | - | 31.10.1986 | 13.02.1997 | - |
| 24. | Ravi Kumar | - | 03.10.1983 | 19.03.1993 | - |

2(i) It has further been pleaded that the posts of Cook/Butler/ Halwai and that of Clerks were placed in the same pay scale since the year 1987. In the year 1987, all these posts were in the pay scale of Rs.400-660; in 1994, in the pay scale of Rs.950-1800; in 2006, in the pay scale of Rs.3120-5160 and in 2010, in the pay scale of Rs.5910- 20200+1900 Grade Pay. However, on the recommendations of 5th Punjab Pay Commission, Government had notified revised pay scales of various categories of employees and the grade pay of Clerks was further revised by the respondent-Department, vide notification dated 03.10.2011 from Rs.1900/- to Rs.2400/- in the following manner :-

| Sr. No. | Name of Post | Revised Pay scale of (01.01.2006) | Revised Pay scale of (w.e.f. 01.10.2011) | | | | |
|---------|--------------|-----------------------------------|--|------|------------|------|------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 1. | Clerk | 5910-20200 | 1900 | 7810 | 5910-20200 | 2400 | 9880 |

2(ii) Thereafter, the Government issued another notification dated 15.12.2011 further revising the pay scale/grade pay of Clerks as under :-

| Sr. No. | Name of Post | Revised Pay scale of (01.10.2011) | Revised Pay scale of (w.e.f. 01.12.2011) | | | | |
|------------|--------------------|---|---|------|-----------------|------|-------|
| | | 3 | 4 | 5 | 6 | 7 | 8 |
| 1. | Clerk | 5910- 20200 | 2400 | 9880 | 10300- 34800 | 3200 | 13500 |

2(iii) The grievance of the petitioners is that although, the Clerks have been granted the grade pay of Rs.2400/- w.e.f. 01.10.2011 and Rs.3200/- w.e.f. 01.12.2011, however, the same has not been granted to the petitioners category despite the fact that the respondent-Department has maintained parity between two sets of posts i.e. Cook/Butler/Halwai and Clerks. The petitioners have submitted various representations for claiming the parity with the Clerks followed by legal notice dated 25.05.2021 (Annexure P-3). When no action was taken on the said representations and legal notice, the petitioners had approached this Court by filing CWP No.12184 of 2021 (Kesar Singh and others Vs. State of Punjab and others) claiming parity with the Clerks and the said writ petition was disposed of by this Court vide order dated 09.07.2021 (Annexure P-4) with a direction to the respondents to consider the legal notice dated 25.05.2021 and pass speaking order in accordance with law and in compliance thereto, the respondent-Department has passed the order dated 04.08.2021 (Annexure P-5), whereby the claim of the petitioners has been rejected mainly on the ground that the Cook/Butler/Halwai and the Clerks belong to different cadres and as such there is no rationality in their demand for equating these posts for the purpose of fixation of pay scales and on their comparative job evaluation also, it does not warrant parity between the two. Hence the instant petition.

3. Reply by way of an affidavit of Ms. Sonali Giri, IAS, Director, Hospitality, Punjab, Chandigarh, on behalf of respondents No.1 to 3 has been filed, wherein it has been stated that there is a lot of difference between the qualifications and functional duties of the posts of petitioners with that of Clerks. The relevant portion from the said reply is as under :-

Preliminary Submissions :

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2. The issued involved in the instant writ petition has already been adjudicated by this Honble Court vide order dated 09.07.2021 in CWP 12184 of 2021. In compliance of above said order the Principal Secretary to Govt. of Punjab, Department of Finance passed speaking order vide no. FD / FP-10 Misc/45/2021-2FP1/982-985 dated 04.08.2021/05.08.2021. So the petitioner has no locus stand to file this writ petition.

3. It is submitted that petitioners who are working as Cook/Butler/Halwai/Steward have sought parity of pay scale with that of Clerk. It is pertinent to mention that there is lot of difference between qualifications, functional duties of the post of petitioners with that of Clerk which are as under :

| Sr. No. | Post | Qualification Required (In case of Direct Recruitment) | Qualification Required (In case of Promotion) |
|------------|------|--|--|
|------------|------|--|--|

1.

Cook

Should be able to read and write English, Hindi and Punjabi language; Should be able to prepare Indian Food and Non-Vegetarian items; and Should have a diploma certificate in cooking of a recognized Catering Institution; OR Should have an experience of working as such in a hotel or restaurant of goods repute.

From amongst the Tanduria, Langri, Jhatkai, Bhishti and Misalchi working under the control of the Director having an experience of working on any one or more of these posts for a minimum period of five years.

2.

Butler

Should know the job of Butler; Should be able to speak and understand English, Hindi and Punjabi language; and Should have a diploma certificate of a recognized catering Institution.

From amongst Waiters, Senior Waiters and Pantrymen working under the control of the Director having an experience of working on any one or more of these posts for a minimum period of three years.

3.

Halwai

Should be able to read and write Punjabi, Hindi and English language; Should be able to prepare all types of sweets of best quality; and Should have an experience of working as Halwai for a minimum period of three years in some restaurant of good repute!

From amongst the Halwai Mates working under the control of the Director having an experience of as such for a minimum period of five years; and Should know the job of Halwai.

4.

Steward

Matriculate
or its
equivalent;
Should be
able to
speak and
understand
English,
Hindi and
Punjabi
language;
Should have
a diploma
certificate
of a
recognized
Catering
Institute;
and
Should have
an
experience
of working
in a hotel or
restaurant
of good
repute as
Steward for
a minimum
period of
one year.

From
amongst
Butlers
having an
experience
of working
as such for
a minimum
period of
five years.

5.

Clerk

No person shall be given direct appointment to the post of Clerk under the Punjab Government unless he possesses the Bachelor's Degree from a recognized university or Institution; and Possesses at least one hundred and twenty hours course with hands on experience in the use of Personal Computer or Information Technology in Office Productivity applications or Desktop Publishing applications from a Government recognized institution or a reputed institution, which is ISO 9001, certified.

OR

Possesses a computer information Technology course equivalent to 'O' level certificate of Department of Electronics Accreditation of Computer Course (DOEACC) of Government of India; The person so appointed a Clerk in terms of the provisions of sub-rule (1), shall have, before his appointment, (passed a test in English and Punjabi, on computer), to be conducted by the Board or the appointing authority or the Department of information Technology as the case may be at the speed of thirty words per minute."

From amongst Class-IV employees working under the control of the Director, who are matriculates or possess knowledge of Punjabi language of Matriculation standard and experience of working on any of such posts for a minimum period of five years and also who pass a type test in Punjabi language at such speed as may be specified by the Director from time to time.

| Sr. No. | Post | Job Description/Duties |
|------------|--|--|
| 1. | Cook/ Halwai Steward Butler/ and | To prepare Indian food and Non-vegetarian items. A Complete range of Continental dishes. To prepare all types of sweets. Stewards are required to serve the officers and supervise in case of V.I.P Service. |

2.

Clerk

1 Diary number After stamping the designation of the branch on each communication received in the branch, the diarist should enter the branch diary number and date within the stamp space.

b) Loose enclosures, e.g. plans, maps etc., which cannot be properly tagged to P.U.C should be kept separate, but a note should be made on them enclosures to diary nodate....so that it may be possible to identify them clearly. Plans and maps should be placed in a strong cover to avoid their getting torn.

c) Submission of fresh receipts after registration to branch officials:

2) Diary marking: On each occasion when fresh receipts, cr cases, pass through the diarist, he should mark in the diary the person to whom and the date on which, they have been sent.

3) Transfer of a fresh receipt: when a fresh receipt received in one branch or office is to be transferred to another, to avoid delay.

4) Countermarking of a number of fresh receipts in a single case: when there are a number of fresh receipts should be countermarked with the last one and all diary marking should be made against the most recent Branch number.

Miscellaneous duties of diarist:

a) to prepare challan (in duplicate) in unofficial references and, when the files are returned to check the papers and also to prepare challans of case sent out of secretariat to camp, etc;

b) to write out telegrams for issue;

c) to retain the spare printed copies of letters till a case is disposed of;

d) to enter in red ink in column 5 of the diary the proceedings and files number of recorded cases;

e) to put up reminder cases in unofficial references on dates fixed for the issue of reminders;

f) to prepare weekly arrear report and check list.

g) to prepare a fortnightly list of Government of India letters needing replies; and

h) to prepare challan of cases sent to issue branch.

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5. It is submitted that the cadre of both the posts is different. Cook/Butler/Halwai/ Steward and Clerks are not borne on a joint cadre.

Moreover the essential qualification, prescribed at the entry level for the posts of Cook/Butler/Halwai/ Steward is 'Matriculation' as per Punjab Hospitality (Class-III) Service Rules, 1987, whereas the essential qualification at the entry level for the post of Clerk is Graduation, Computer course and has to passed typing test in Hindi/English. It is also pertinent to mention here that the posts of Cook/Butler/Halwai/ Steward are 100% filled through promotion from Class-IV posts i.e. from Mate, Waiter, Senior Waiter, Halwai Mate, etc. as per Punjab Hospitality (Class-III) Service Rules, 1987 and there is no provision for the direct recruitment against these posts.

Reply on Merits :

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As such, the Pay Commission has recommended a factor of multiplication 2.59 to only those categories which could not get any rise on account of re-revision and factor of 2.25 to those, whose pay scale have been re-revised in November, December 2011. This has been done primarily to rationalize the pay scales as per 5th Pay Commission Report as on 01.01.2016. Meaning thereby, both the Clerks and the Restorers, will be put in the matrix equivalent to Grade pay of 1900. This 6th Pay Commission report has been accepted by the Government.

In view of these recommendations of 6th Pay Commission and duly accepted by Government, even the scales of Clerks shall be rationalized. So, there is no merit in submission to draw any precedence from the order of the then Principal Secretary to the Government of Punjab, Department of Finance dated 11.02.2020.

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4. Learned counsel for the petitioner has submitted that there was a parity between the posts of Cook/Butler/Halwai and that of Clerks since the year 1987 which has been disturbed by the respondents w.e.f. 01.10.2011 when the Clerks were granted the grade pay of Rs.2400/- in pay scale of Rs.5910-20200 and the grade pay was further revised to Rs.3200/- w.e.f. 01.12.2011, however, the said revision has not been given to the petitioners category and the said action of the respondents is totally illegal and arbitrary and, therefore, the petitioners are entitled for the same pay scale as has been given to the Clerks w.e.f. 01.12.2011.

5. Per contra, learned State counsel has submitted that merely that the petitioners category and Clerks were in the same pay scale from 1987 onwards does not confer any right upon the petitioners to get the same pay scale throughout as that of Clerks. He has further submitted that both these categories are not part of the same cadre. Their essential qualifications for recruitment are different and their job descriptions are also totally different and therefore, the petitioners are not entitled

for the same pay scale as has been given to the Clerks.

6. I have heard learned counsel for the parties and perused the relevant documents.

7. In nutshell, the precise grievance of the petitioners in the instant writ petition is that they are entitled to the same pay scale and grade pay as is being given to the Clerks working in the same department, inasmuch as prior to 01.10.2011, the posts of the petitioners and Clerks were placed in the identical pay scale, and such parity has subsequently been disturbed by the respondents. The burden of proof in establishing parity in the pay-scales and nature of duties and responsibilities, is on the petitioners, however, the said burden has not been discharged by the petitioners as no such pleading to this effect has been given in the writ petition.

8. On the other hand, the respondents have stated in the reply that there is no comparison of the two categories as their qualifications and functional duties are totally different. They have also mentioned the job descriptions of the posts in question, which clearly shows that there is no similarity in the nature of duties discharged. It has also been asserted that at no point of time the Government has taken any conscious decision to equate the posts of Cook/Butler/Halwai with that of Clerks. The mere fact that the posts of Cook/Butler/Halwai and the Clerks were placed in the same pay scale from the year 1987 to 01.10.2011 and that a higher pay scale has been granted to the Clerks w.e.f. 01.10.2011 does not amount to any anomaly. The parity cannot be claimed merely on the ground that at an earlier point of time these posts were in the same pay scale.

9. Similar issue has been considered by the Co-ordinate Bench of this Court in a bunch of cases and the lead case being CWP No.22069 of 2014 titled as Om Parkash and others Vs. Chief Secretary to Government of Punjab and others, decided on 11.09.2017, wherein it has been held as under:-

The precise grievance raised in the petition is that such historical parity has not been maintained and has been broken w.e.f. 01.12.2011. It is submitted that the Senior Lab Attendants who were enjoying identical pay scale earlier in point of time have now been placed in a pay scale/grade pay as also initial pay inferior to a position as compared to the reference posts. In support of such contention another tabulation stands furnished in Para 11 of CWP No.23209 of 2015 and which is extracted herein below:-

| Post | Un-revised pay scale | Revised pay scale w.e.f. 01.12.2011 | Revised pay scale w.e.f. 01.06.2011/10.10.2011 | Repeated Revised/ Re-revised pay scale w.e.f. 01.12.2011 |
|------|----------------------|-------------------------------------|--|--|
|------|----------------------|-------------------------------------|--|--|

| | | Scale | Grade Pay | Initial Pay | Scale | Grade Pay | Initial Pay | Scale | Grade Pay | Initial Pay |
|-----------------------------|----------------|------------|-----------|-------------|------------|-----------|-------------|-------------|-----------|-------------|
| Senior Lab Attendants | 3120-5160/6200 | 5910-20200 | 1900 | 7810 | | | | 5910-20200 | 3200 | 9880 |
| Photostat machine | -do- | 5910-20200 | 1900 | 7810 | | | | 10300-34800 | 3200 | 13500 |
| Patwari | -do- | 5910-20200 | 1900 | 7810 | | | | | | |
| ARC (Irrigation Department) | -do- | 5910-20200 | 1900 | 7810 | | | | 10300-34800 | 3200 | 13500 |
| Work Munshi | -do- | 5910-20200 | 1900 | 7810 | | | | 5910-20200 | 2400 | 9880 |
| Gram Sewak | -do- | 5910-20200 | 1900 | 7810 | | | | 10300-34800 | 3200 | 13500 |
| Constable | -do- | 5910-20200 | 1900 | 7810 | 5910-20200 | 200 | 8240 | 10300-34800 | 3200 | 13500 |
| Clerk | -do- | 5910-20200 | 2400 | 9880 | | | | 10300-34800 | 3200 | 13500 |
| Restorer | -do- | 5910-20200 | 1900 | 7810 | | | | 5910-2022 | 2400 | 9880 |

The solitary contention advanced by counsel is that since Senior Lab Attendants had enjoyed identical pay scale for a period in excess of four decades, it was not open for the State Government to have broken such parity. The action of the State Government in having denied to the petitioners identical pay scale/grade pay and initial pay to the Senior Lab Attendants and while granting revised pay scales w.e.f. 01.12.2011 to the reference posts at a higher level is stated to be arbitrary and violative to Articles 14 and 16 of the Constitution of India.

Counsel for the parties have been heard at length.

It is by now well settled that grant of pay scale is a complex function which involves evaluation of duties and responsibilities of different posts. Such evaluation is best left to be carried out by the expert bodies. Granting parity in pay scales depends upon a comparative job evaluation and equation of posts. It is equally well settled that the principle of Equal Pay for Equal Work is not a fundamental right but a constitutional goal. The question as regards pay parity would depend on a number of relevant factors/parameters such as educational qualifications, nature of the job, duties to be performed, responsibilities to be discharged, method of recruitment etc.

It may be noticed that even though, Senior Lab Attendants i.e. the petitioners herein are seeking pay parity with the holders of reference posts i.e. Photostat Machine Operators, Patwaries, Assistant Revenue Clerks (Irrigation Department), Work Munshies, Gram Sewak, Constables, Clerks, Restorers and Multi Purpose Health Workers yet the pleadings are completely bereft as regards the duties and responsibilities of the post of Senior Lab Attendants as opposed to the reference post mentioned hereinabove.

There is no averment in the instant petition that would shed light on the comparative educational qualifications required for the posts, the method of recruitment, the duties to be performed and the responsibilities to be discharged. In the absence of such pleadings and material on record, the prayer of the petitioners i.e. Senior Lab Attendants to be granted pay parity with the posts under reference cannot be adjudicated upon and accepted

Parity also cannot be claimed merely on the basis that earlier in point of time the subject post i.e. the post of Senior Lab Attendants and the reference category posts i.e. noticed hereinabove, were carrying identical pay scale. A reference in this regard may be made to the decision of the Hon'ble Supreme Court of India in State of West Bengal and another vs. West Bengal Minimum Wages Inspectors Association and others 2010(2) SCT 250. The issue before the Apex Court in case of State of West Bengal (supra) was pay parity sought by employees holding the post of Inspector Agricultural Minimum Wages (for short Inspector-AMW) with those holding the posts of Inspector (Co-operative Societies), Extension Officers (Panchayat) and Revenue Officers. The case set up on behalf of Inspectors-AMWs while seeking pay parity with the reference posts was that they had enjoyed pay parity with the reference posts all through and such parity had subsequently been broken. Apparently, the State of West Bengal had appointed a Pay Review Committee to consider the representations submitted by Inspector AMW and the Pay Review Committee made a recommendation in their favour and for establishing and restoring pay parity with the reference posts. The State of West Bengal however decided not to accept the recommendations of the Pay Review Committee. The matter having been agitated, a Division Bench of the Calcutta High Court allowed the claim of the Inspectors-AMWs and directed as follows:-

The petitioners be given the same scale from the respective date as were given to their counter parts namely the four posts under RPA 1981 as well as corresponding scale under RPA 1986 and the same scale that would be given to those four posts under the 4th Pay Commission and accordingly their pay be fixed and the difference/arrears be paid to the petitioners within six months from the date of receiving of certified copy of the order.

The matter having been carried up in appeal before the Hon'ble Supreme Court, appeal was allowed and the impugned judgment of the Division Bench of the Calcutta High Court was set aside.

It was held that the Apex Court as follows:-

17. It is now well-settled that parity cannot be claimed merely on the basis that earlier the subject post and the reference category posts were carrying the same scale of pay. In fact, one of the functions of the Pay Commission is to identify the posts which deserve a higher scale of pay than what was earlier being enjoyed with reference to their duties and responsibilities, and extend such higher scale to those categories of posts. The Pay Commission has two functions; to revise the existing pay scale, by recommending revised pay scales corresponding to the pre-revised pay scales and, secondly, make recommendations for upgrading or downgrading posts resulting in higher pay scales or lower pay scales, depending upon the nature of duties and functions attached to those posts. Therefore, the mere fact that at an earlier point of time, two posts were carrying the same pay scale does not mean that after the implementation of revision in pay scales, they should necessarily have the same revised pay scale. As noticed above, one post which is considered as having a lesser pay scale may be assigned a higher pay scale and another post which is considered to have a proper pay scale may merely be assigned the corresponding revised pay scale but not any higher pay scale. Therefore, the benefit of higher pay scale can only be claimed by establishing that holders of the subject post and holders of reference category posts, discharge duties and functions identical with, or similar to, each other and that the continuation of disparity is irrational and unjust. The respondents have neither pleaded nor proved that the holders of post of Inspectors (Cooperative Societies), Extension Officers (Panchayat) and KGO-JLRO (Revenue Officers) were discharging duties and functions similar to the duties and functions of Inspector-AMW. Hence, the prayers in the original writ petition could not have been granted. In fact, that is why the learned single Judge rightly held that whether the posts were equivalent and whether there could be parity in pay are all matters that have to be considered by expert bodies and the remedy of the respondent was to give a representation to the concerned authority and the court cannot grant any specific scale of pay to them.

In the considered view of this Court, the dictum laid down in the case of State of West Bengal (supra) applies squarely to the facts of the present case as well.

The petitioners could have claimed the benefit of higher pay scale as admissible to the reference posts of Photostat Machine Operator, Lift/Telephone/Tubewell Operator, Senior Technician, Constables, Restorers, Patwari, Clerks(Basic Entry point), Bill Clerk, Assistant Revenue Clerks (Irrigation Department), Work Munshi, Booking Clerk, Ledger Keeper, Store Munshi, Complaint Clerk, Gram Sewak, as also Multi Purpose Health workers, only upon establishing that the Senior Lab Attendants also discharge duties and functions identical with or similar to the ones discharged and carried out by holders of the posts in reference. It is only in the eventuality of the petitioners having discharged such onus that this Court could possibly hold that the dis-parity in pay scales is irrational and unjust. There are no

such pleadings on record. The only ground set up for claiming pay parity is that there had been pay parity in the past. That by itself cannot be a ground to accept the prayer made in the instant writ petition.

It is not even the case of the petitioners that the State Government at any point of time had taken a conscious decision of equating the post of Senior Lab Attendant with any of the reference posts noticed hereinabove.

In view of the discussion above, no merit is found in these petitions and the same are dismissed.

10. The said judgment has been upheld by the Division bench of this Court in LPA No.2206 of 2017, titled as Malkiat Singh and others Vs. The Chief Secretary to the Government of Punjab and others, decided on 20.11.2017. The operative part of the said judgment, reads as under:-

The learned Single Judge noticed that at one point of time there was a parity of pay between certain set of employees mentioned in the petition but that would not mean that the appellants would continue to be equated in terms of pay with those employees in the event of the other categories getting higher pay scale unless it is shown to the court that there is a co-relation between their work and similarity of functions or the existence of rules equating these posts.

Before us while arguing learned counsel for the appellants has candidly conceded that there are no rules or instructions equating these posts to render a co-relation between them. If that is so then merely because at one point of time the pay structure admissible to these set of employees was co-incidentally similar would be no cause to seek parity. Therefore, finding no error in the approach of the learned Single Judge, we decline interference in the Letters Patent Appeal but make it clear that the grievance of the appellants for higher pay structure can independently be looked into by the State considering the nature of duties performed by the appellants. We hasten to add here that this is not to comment on the legitimacy of the appellants' grievance. Since the appellants have made a representation to the State, they may look into it.

Appeal stands disposed of.

11. The aforesaid judgment in case of Om Parkash and others case (supra), has been followed by this Court in CWP No.14047 of 2017, titled as Khushwant Singh & Others Vs. State of Punjab & Others, decided on 20.04.2023.

12. The Honble Supreme Court in Punjab State Power Corporation Limited Vs. Rajesh Kumar and others : 2019(1) SCT 536 while considering the similar question with regard to the parity in pay scales of the posts of Head Clerks with that of Internal Auditors in Punjab State Electricity Board has held as under:-

13. In the light of the submissions, several issues arise for determination inter alia are as under:-

Whether the Internal Auditors are entitled to claim parity of pay scale with Head Clerks and Head Clerk cum Divisional Accountants irrespective of the nature of recruitment, qualifications and nature of duties and responsibilities?

Can the Internal Auditors claim equity of pay scale, merely because they are in the same group (Class-XII) irrespective of the nature of work and the internal qualification for recruitment. In view of the promotional avenues available to the Internal Auditors and the high pay scales which are available in the promotional position, opting for Internal Auditors, is it not a preferred option?

When there are about fourteen posts categorised in Group XII, can Internal Auditors claim parity of pay scale with the Head Clerks merely because they were categorised in Group XII?

14. Ordinarily, the courts will not enter upon the task of job evaluation which is generally left to expert bodies like the Pay Commission etc. The aggrieved employees claiming parity must establish that they are unjustly treated by arbitrary action or discriminated. In *Kshetriya Kisan Gramin Bank v. D.B. Sharma and Others* (2001) 1 SCC 353, this Court held as under:-

7. The next question that arises for consideration is, as to what extent the High Court would be justified in exercise of its extraordinary jurisdiction under Article 226 to interfere with the findings of an expert body like the Equation Committee. In *State of U.P. and Others v. J.P. Chaurasia and Others* (1989) 1 SCC 121, this Court unequivocally held that in the matter of equation of posts or equation of pay, the same should be left to the Executive Government, who can get it determined by expert bodies like the Pay Commission, and such expert body would be the best judge to evaluate the nature of duties and responsibilities of the posts and when such determination by a commission or committee is made, the court should normally accept it and should not try to tinker with such equivalence unless it is shown that it was made with extraneous consideration .

15. In *S.C. Chandra and Others v. State of Jharkhand and Others* (2007) 8 SCC 279, this Court held as under:- 33. It may be mentioned that granting pay scales is a purely executive function and hence the court should not interfere with the same. It may have a cascading effect creating all kinds of problems for the Government and authorities. Hence, the court should exercise judicial restraint and not interfere in such executive function vide *Indian Drugs & Pharmaceuticals Ltd. v. Workmen, Indian Drugs & Pharmaceuticals Ltd.* (2007) 1 SCC 408.

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35. In our opinion fixing pay scales by courts by applying the principle of equal pay for equal work upsets the high constitutional principle of separation of powers

between the three organs of the State. Realising this, this Court has in recent years avoided applying the principle of equal pay for equal work, unless there is complete and wholesale identity between the two groups (and there too the matter should be sent for examination by an Expert Committee appointed by the Government instead of the court itself granting higher pay).

36. It is well settled by the Supreme Court that only because the nature of work is the same, irrespective of educational qualification, mode of appointment, experience and other relevant factors, the principle of equal pay for equal work cannot apply vide *Govt. of W.B. v. Tarun K. Roy and VINOD KOTHIYAL Others* (2004) 1 SCC 347.

The same view was reiterated in *Union Territory Administration, Chandigarh and Others v. Manju Mathur and Another* (2011) 2 SCC 452; *State of Haryana and Others v. Charanjit Singh and Others* (2006) 9 SCC 321 and in *Hukum Chand Gupta v. Director General, Indian Council of Agricultural Research and Others* (2012) 12 SCC 666.

16. Observing that granting parity in pay scales depends upon the comparative evaluation of job and equation of posts, in *Steel Authority of India Limited and Others v. Dibyendu Bhattacharya* (2011) 11 SCC 122, this Court held as under:-

30. .. the law on the issue can be summarised to the effect that parity of pay can be claimed by invoking the provisions of Articles 14 and 39(d) of the Constitution of India by establishing that the eligibility, mode of selection/recruitment, nature and quality of work and duties and effort, reliability, confidentiality, dexterity, functional need and responsibilities and status of both the posts are identical. The functions may be the same but the skills and responsibilities may be really and substantially different. The other post may not require any higher qualification, seniority or other like factors. Granting parity in pay scales depends upon the comparative evaluation of job and equation of posts. The person claiming parity, must plead necessary averments and prove that all things are equal between the posts concerned. Such a complex issue cannot be adjudicated by evaluating the affidavits filed by the parties.

17 to 38. XXXX XXXX XXXX

39. The only ground urged by respondents-Internal Auditors is that parity of pay scale between the Head Clerks and the Internal Auditors was maintained by the appellant-Board for more than two decades and while so, disturbing the parity is arbitrary and illegal. The Court has to keep in mind that a mere difference in service conditions, does not amount to discrimination. Unless there is complete identity between the two posts, they should not be treated as equivalent to claim parity of pay scale. No doubt, Internal Auditors were earlier placed in the same group namely Group XII; but educational qualifications for the post of Head Clerk and mode of recruitment are different. As submitted by the learned Senior Counsel for the

appellant-Board, that in the year 1980, there were only four posts in Group XII but subsequently some posts were added to Group XII and the total fourteen posts which were added to Group XII are:- Punjabi Teacher, Drawing Teacher, Hindi Teacher, D.P.Ed. Teacher, Master/Mistress, Science Teacher, Security Inspector, Modeller Divisional Head Draftsman, Prosecuting Inspector (now Law Officer), Law Officer Grade II, Medical Assistant, Librarian and Fire Officer, etc. For all these posts, source and mode of recruitment, qualifications and nature of work are entirely different. If the contention of the Internal Auditors for claiming parity of pay scale with that of Head Clerks merely on the ground that the post of Internal Auditor was placed in Group XII, then if such parity of pay scale may have to be extended to all other posts, it would have huge financial implication on the finance of the Board which is a service-oriented institution owing to the consumers. As held in *Union of India and Another v. Manik Lal Banerjee* (2006) 9 SCC 643, it is now a well settled principle of law that financial implication is a relevant factor for accepting the revision of pay.

40. The learned Single Judge proceeded under the erroneous footing as if the case of Internal Auditors is covered by the case put forth by Sub Fire Officers. The learned Single Judge did not keep in view the counter statement filed by the appellant-Board before the High Court pointing out various distinguishing features of Internal Auditors and Head Clerks on account of which no parity could be granted to the Internal Auditors with the Head Clerks. The High Court also did not keep in view that the Pay Anomaly Committee did consider the demand of Internal Auditors and had not accepted the demand in view of different nature of duties and various other relevant factors. The learned Single Judge erred in recording that the respondents were in the same category of Sub Fire Officers within the same group which have been decided by the earlier judgment dated 21.01.2010.

41. As discussed earlier, merely because various different posts have been categorized under Group XII, they cannot claim parity of pay scale as that of the Head Clerk. All the more so, when the Internal Auditors are appointed 55% by direct recruitment and 45% by promotion from Circle Assistant/Assistant Revenue Accountant. The High Court did not keep in view that the duties, nature of work and promotion channel of Head Clerks and Internal Auditors are entirely different and that option to seek promotion apparently as Internal Auditors was the conscious exercise of option, the impugned judgment cannot be sustained and is liable to be set aside

42. In the result, the impugned judgment dated 23.02.2012 passed by the High Court of Punjab and Haryana at Chandigarh in LPA No.264 of 2012 and Order dated 04.05.2012 in the review petition are set aside and these appeals are allowed. No costs.

13. In view of the forgoing reasons as well as settled proposition of law laid down by Honble Supreme Court and by this Court, the claim of the petitioners seeking pay

parity with the posts of Clerks cannot be countenanced with and, therefore, the present petition is accordingly dismissed.