(1992) 08 P&H CK 0006

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 1781 of 1985

Narinder Singh		APPELLANT
	Vs	
The State of Punjab and Another		RESPONDENT

Date of Decision: Aug. 13, 1992

Citation: (1994) 1 ILR (P&H) 42

Hon'ble Judges: R.S. Mongia, J

Bench: Single Bench

Advocate: P.S. Patwalia and Anuj Raura, for the Appellant; Arihant Jain, A.A.G., for the Respondent

Final Decision: Dismissed

Judgement

R.S. Mongia, J.

Petitioner joined service as a Technical Officer on 18th June, 1863 in the Industrial Training Department in the erstwhile State of Punjab in the pay scale of Rs. 250--500. He was allocated to the State of Punjab after reorganization in 1966. The First Pay Commission recommended certain revision of pay scales of the Government employees in the State of Punjab which were made effective from 1st January, 1968. The pay scale of the post of Technical Officer held by the Petitioner was recommended to be down graded to Rs. 200--450. This recommendation was accepted by the Government. However, the Petitioner was given an option to opt for his old pay scale of Rs. 250--500, which he did and continued to remain in the pay scale of Rs. 250--500.

2. Petitioner was dissatisfied with the down grading of pay seale of the post of Technical Officer. In fact, according to him, the pay scale of the post of Technical Officer should have been the same as that of Assistant Director, inasmuch as the duties and responsibilities of the post of Technical Officer were comparable with those of Assistant Director. Petitioner made representation to that effect and according to the averments made in the petition, the case was recommended by the Secretary to the Government in the Industrial Training Department to the Anomaly

Committee that the pay scale of Technical Officer be revised to Rs. 350--900, which was the pay scale of the Assistant Director in the Industrial Training Department at that time. Further according to the pleadings, no decision was taken on the representation, because meanwhile second Pay Commission was constituted to further recommend the revision of pay scales.

3. The case of the Petitioner was referred to the second Pay Commission. The Petitioner personally appeared before the Pay Commission and tried to make out a case for revision of pay scale of the post of Technical Officer equal to that of Assistant Director. The Pay Commission accented the contention of the Petitioner and recommended that all Inspecting Officers should be treated alike and fee pay scale of Rs. 825--1,580 for the post in question was recommended. The recommendations of the second Pay Commission were in the following terms:

47.6 The post is Piled by 100 percent direct recruit. The qualification laid down is Matric with Diploma/Certificate of atleast year in Mechanical Engineering with 5 years supervisory experience in Mechnical trade. The incumbent of the post appeared before the Commission and demanded that he should be treated like other inspecting officers. He stated that it is an isolated post and he is not eligible for promotion to next higher post. The job responsibilities of this post are inspection of Industrial Training Centres and Arts and Crafts Teachers Training Centres. The departmental recommendation is to raise the scale of Technical Officer to Rs. 400--1,100 (unrevised) which is indeed on the high side. Keeping in view the job responsibilities and the fact that all inspecting officers should be treated alike the Commission recommend the scale of Rs. 825--1,580 for the post. The post should be placed in group of Assistant Director (Non-technical) etc. so that the incumbent can look for promotion in the normal cadre on the basis of his merged seniority.

4. The State Government, however, did not accept the recommendations of the Pay Commission and rather notified,--vide letter dated 22nd February, 1980 the revision of pay scale to Rs. 620--1,200 for the post of Technical Officer instead of Rs. 825--1,580 recommended by the Second Pay Commission. It is further the case of the Petitioner that he had made a representation against the non-grant of pay scale of Rs. 825--1,580 to the Senior Officers'' Committee constituted to consider the representations of the Government employees with regard to the anomalies in the revised scales of pay. Some representations made by certain other officers were accepted in July, 1984. However, the Petitioner's representation did not find favour with the Committee. Petitioner still made another representation to the Government and when no action was taken on that representation, he filed the present writ petition.

5. In the written statement filed on behalf of the Respondents, while denying the allegation of the Petitioner that the duties arid responsibilities of the Technical Officer are the same as that of Assistant Director, it has been averred that the post of Technical Officer is sanctioned under the Welfare of Scheduled and Backward

Classes-Industrial Training Centres to supervise the work of this scheme and not for the purpose of inspecting the Arts and Crafts Teachers Training Institutes. The duties of the Technical Officer are simply to supervise the working of Welfare Training Centres which are only 5 in number and the seating capacity of each centre ranges from 48 to 60 except at Industrial Training Centre, Garhshankar, where the seating capacity is 124. It has been further averred that Assistant Director/Principal with whom the Petitioner is seeking parity, supervises fire working of the Institutes, which have generally the seating capacity ranging from 250 to 599. The quantum of responsibility and the qualification of the two posts differ to a great extent. The qualifications for the direct recruitment to the post of Principal, Industrial Training Institute/Assistant Director and that of Technical Officer have also been mentioned to show that for the former posts, the qualifications are higher. According to the Respondents, the recommendations of the Pay Commission which were only recommendatory in nature were duly considered by the State Government, but were not wholly accepted.

6. The learned Counsel for the Petitioner submitted that the Pay Commission which is appointed by the Government to recommend the revision of pay scales in an expert body, which, after considering all the aspects of the matter, like qualifications for the recruitment to the post, the job requirements, responsibilities etc., recommended a particular pay scale for the said post. In the present case, according, to the Petitioner's counsel the pay Commission after considering all the aspects referred to above had recommended that the post held by the Petitioner should be placed in the grade of Assistant Director (Non-Technical) i.e. in the pay scale of Rs. 825--1,580. He further contended that once the recommendations are made by the Pay Commission, the Government cannot pick and choose some posts and accept the recommendations qua them and reject the recommendations wholly or partially for the other posts. The Government, according to the counsel, had to accept the report of the Pay Commission as a whole and very strong reasons have to be given for rejecting a particular recommendation. In support of his contentions, he cited, a judgment of the Supreme Court reported as Purshottam Lal and Others Vs. Union of India (UOI) and Another, .

7. The learned Counsel for the Petitioner also brought to my notice the fact that the Third Pay Commission made no recommendations regarding the post held by the Petitioner as the present case was pending in the High Court. This, according to the Petitioner, was disclosed to him at the time of personal hearing given by the Third Pay Commission. The Third Pay Commission had recommended pay scale of Rs. 2,000--3,500 for the post of Assistant Director but Officers Anamoly Committee raised it to Rs. 2,200--4,000 and for the post of Technical Officer held by the Petitioner the pay was, revised to Rs. 2,000--3,500, which was the pay scale recommended by the Third Pay Commission for the post of Assistant Director.

8. On the other hand, learned Counsel for the Respondents submitted that the recommendations of the Pay Commission are recommendatory in nature and are not binding on the Government and for good reasons it may or may not accept the recommendations and in certain cases it can even grant higher pay-scale than the one recommended by the Pay Commission. According to him, the State Government after considering in detail the responsibilities the nature of duties and other host of factors can brush aside the recommendations of the Pay Commission. In support of his contentions, he cited Kewal Ram Sharma and Ors. v. State of Punjab and Ors. 1989 (3) S.L.R. 507, in which case this Court had considered the judgment of the Supreme Court in Purshottam Lal''s case (supra).

9. After considering the arguments of the learned Counsel for the parties, I do not find any merit in the arguments of the learned Counsel for the Petitioner. As has been noticed above, the duties and responsibilities of the post held by the Petitioner and those of Assistant Directors/Principals, were totally different and the job requirement was also different. Not only the duties and responsibilities are different even the qualifications are also different. It has been held by this Court in Kewal Ram Sharma''s case (supra), that the recommendations of the Pay Commission are recommendatory in nature. The doctrine of ''equal pay for equal work'' applies only to a set of persons who are placed similarly. However, this doctrine does not hold good when two persons are differently placed. The pay depend on the nature of duties, the qualifications required of the post the responsibilities which are attached to the post and not necessarily the quantum of work. The pay depends on the quality of the. work, the job requirements, toe responsibilities that a person discharge and most of such other factors. The case cited by the learned Counsel for the Petitioner has no application to the present case. In that case the recommendations were made by the Pay Commission on a reference made by the Government regarding various posts. After the recommendations were received, the Government implemented the same qua certain posts but qua others it were not implemented. Under these circumstances, the Supreme Court held, that once a reference is made for various posts and recommendations are received for all the posts then some of the posts cannot be left out as if no reference was made regarding those posts. This Supreme Court authority was considered and extinguished in Kewal Ram Sharma&#65533;s case (supra). I am an respectful agreement with the view taken in Kewal Ram Sharma''s case (supra).

10. The Government after the Third Pay Commission, raised the pay scale of the post of the Petitioner to the one which was recommended by the Pay Commission for the post of Assistant Director, to which post the Petitioner&#65533;s post had been equated by the Second Pay Commission. (No doubt, the Government has revised the pay scale of Assistant Director to a higher pay scale, but that would not mean that the Petitioner must also get the same pay scale as that of the Assistant Director, as according to the Government the nature of duties, etc., are different.)

11. For the foregoing reasons, I find no merit in this writ petition, which is hereby dismissed, but without any order as to costs.