

(2001) 03 P&H CK 0171

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 11805 of 1997

Surinder Kumar Goyal

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: March 5, 2001

Acts Referred:

- Constitution of India, 1950 - Article 14, 16, 226, 227
- Haryana Improvement Trust Services Rules - Rule 11

Hon'ble Judges: R.L. Anand, J

Bench: Single Bench

Advocate: Mr. P.C. Sapra, for the Appellant; Mr. Sultan Singh, AAG and Mr. R.S. Chahar, for the Respondent

Final Decision: Allowed

Judgement

R.L. Anand, J.

Shri Surinder Kumar Goyal, Junior Engineer, was earlier working in Improvement Trust, Hansi. In the year 1997, he has filed the present Civil Writ Petition under Articles 226/227 of the Constitution of India against the State of Haryana and others and made a prayer that directions be issued to the respondents to grant him the benefit of the revised scales at par with the Junior Engineer of the P.W.D. R&R Branch from 1979 onwards as per Rule 11-A of the Rules.

2. The case set up by the petitioner is that he was appointed as an Overseer (now designated as Junior Engineer) by Improvement Trust, Yamunanagar in the scale of Rs. 100-300. On 16.6.1970, the Government of Haryana issued general instructions to all the Chairmen of the Improvement Trusts in the State of Haryana that it has no objection to the grant of revised scales of pay to the employees of Improvement Trusts as sanctioned by the State Government. On 28.6.1991 the Improvement Trusts in the State of Haryana were dissolved and the services of the petitioner were utilised in local Municipal Committee Yamunanagar for the completion of Trust

scheme. In the month of February, 1980, the statutory Rules were framed by the Government for the revision of the grades for its employee which came into force with effect from 1.4.1979. On 1.4.1985, the revised grades of the Government were sanctioned for the employees of the Improvement Trust but with effect from 1.4.1985 instead of 1.4.1979. A writ was filed in the High Court i.e. C. W.P. No. 5967 of 1986 and the same was allowed on 8.12.1987 and it was directed by the High Court that the benefits of revised pay scales be given to the Improvement Trust employees with effect from 1.4.1979 instead of 1.4.1985. In pursuance of the directions dated 8.12.1987, the Haryana Government issued general instructions for the release of revised pay scales to the Improvement Trusts employees with effect from 1.4.1979.

3. The grouse of the petitioner is that the Government of Haryana issued orders revising the scales of the Junior Engineers of P.W.D. B&R Branch to Rs. 600-1100 and to Rs. 700-1250, applicable with effect from 1.2.1981 and 1.7.1985, respectively and that it further revised the scales with effect from 1.1.1986 i.e. 1400-2300 and 1640-2900 promotional scale for 50% posts but the petitioner was deprived of the benefit of this promotional scale also. Still, further, on 27.1.1992 the Haryana Government further revised the pay scales of Junior Engineers working in the Government Departments with effect from 1.1.1992 and the revised grades were framed as follows :-

"1640-2900 ordinary time scale and promotional scale 2000-3200 with 15 years regular and satisfactory service."

The aforesaid scales have not been given to the petitioner. The grouse of the petitioner further is that his grade has been revised with effect from 1.1.1992 and he has been placed in the grade of Rs. 1640-2900 with effect from 1.1.1992 but he has not been given the benefit of promotional scale of 2000-3200 with effect from the said date. He served several legal notices upon the respondents but to no effect. So much so his representation has also been rejected by the respondents. Hence the present writ petition.

4. Notice of the writ petition was given to the respondents. A separate written statement was filed on behalf of the respondents. It was pleaded by respondent No. 1 that the claim of the petitioner for the grant of revised pay scale with effect from 1.4.1979, 1.2.1981, 1.7.1985, 1.1.1986 and 1.1.1992, is highly belated and the writ petition is liable to be dismissed on the ground of delay and laches.

5. On merits, the stand of the respondents is that all the Improvement Trusts in the State were dissolved on 28.6.1991. Earlier also, these Trusts remained dissolved from 6.7.1978 to 19.7.1990. During the dissolution of the Trust, the petitioner remained posted in the various Municipal Committees or he had been working in the dissolved Improvement Trust. Revised pay scales with effect from 1.4.1979 were also granted to all the employees of the Improvement Trusts as per the letter dated

26.2.1988 issued by the State Government. It was pleaded that the administrative set up of P.W.D. B&R. is quite different from that of the Improvement Trust. The nature of the duties of the Junior Engineer working in P.W.D. B&R are quite different especially, when the Improvement Trusts stand dissolved in the State of Haryana and u/s 103 of the Improvement Trust Act, schemes already sanctioned were only to be completed. Earlier the revised grade of Rs. 525-1050 was decided to be given with effect from 1.4.1985 but it has been preponed with effect from 1.4.1979 keeping in view the directions of the High Court. The petitioner wants to take the benefit of the letter Annexure P-2 which relates to P.W.D. B&R Department only as the nature of the duties of the Junior Engineer in the P.W.D. B&R is totally different from that of the Junior Engineers of the Improvement Trusts. Therefore, the petitioner cannot take the advantage of the instructions as contained in the letter Annexure P-2 dated 1.8.1985. The petitioner has also been granted the pay scales of Rs. 1400-2600 with effect from 1.1.1986. The clarification dated 1.8.1985, is not applicable to the case of the petitioner because nature of the duties of Junior Engineers working in the various Government Departments and Junior Engineers in the dissolved Improvement Trusts is different. The petitioner has already been granted the benefit of the pay scale of Rs. 1640-2900 with effect from 1.1.1992 and he is not entitled to the promotional pay scale of Rs. 2000-3200 because the nature of the duties is different.

6. In short, the stand of respondent No. 1 is that the petitioner cannot get the benefit of the pay scales of Junior Engineers working in the various Government Departments because nature of duties of a Junior Engineer in the Improvement Trust is different from that of working in the Government Offices.

7. Separate written statement was also filed by respondent No. 2. This respondent has also adopted the same reasons as adopted by respondent No. 1 who made a prayer for the rejection of the writ petition.

8. The petitioner filed a rejoinder to the written-state-ment of respondent No. 1 in which he reiterated his averments as made in the writ petition by denying those of the written statement.

9. The petitioner in support of his writ petition has placed on record copy of the letter dated 28.2.1988 Annexure P-1, vide which, the Government of Haryana issued instructions to all the Chief Executive Officers of the Improvement Trusts and directed them that all the employees of the Improvement Trusts be paid grades of pay with effect from 1.4.1979. 50% of this amount was ordered to be paid to the employees in cash while National Saving Certificates were ordered to be purchased for them for the remaining 50 per cent. Annexure P-2 is the copy of the letter dated 1.8.1985 vide which the sanction of the Government was accorded to the revision of the pay scales of the Junior Engineers of P.W.D. B&R Branch and they were placed in the revised scale with effect from 1.4.1979 at Rs. 525-1050 time scales and Rs. 700-1250 in Selection Grade. In this letter further the time scale was revised to Rs.

600-1100 with effect from 1.2.1981 and Selection Grade to Rs. 700-1250 for 20% posts w.e.f. 1.7.1985. Further it was observed that Junior Engineer will get time scale of Rs. 700-1250 and selection grade of Rs. 800-1400 for 20% posts. Anneuxre P-3 is the letter vide which the Government of Haryana again issued the letter to all the Heads of the Departments vide which the grades were revised to Rs. 1640-2900 and to Rs. 2000-3200 for the Junior Engineers who had completed 15 years regular and satisfactory service and who have not been promoted to the next higher post, with effect from 1.1.1992.

10. Anneuxre P-4 is the copy of the letter vide which it was decided to permit the dissolved Trusts to revise the scales of pay with effect from 1.1.1986 of the common categories of posts shown in the schedule attached with this letter, subject to the condition that expenditure on account of revision of pay scales will be borne by the respective Trusts out of their own funds. Anneuxre P-5 is the copy of the letter dated 24.10.1996 vide which the representation of the petitioner was considered and it was found that official was working on his post for the last about 30 years and that scale of Junior Engineer working in all the Departments under the Government had been revised from 1400-2300 to Rs. 1640-2900 with effect from 1.1.1992, therefore, the petitioner was allowed the scales of Rs. 1600-2900 with effect from 1.1.1992 and approval was granted. The petitioner is not satisfied with this order. Rather he is wanting that with effect from 1.1.1992 he should be granted the grade of Rs. 2000-3200 also which is being deprived to him on the ground that nature of duties of the Junior Engineers working in the Government Departments and that of Improvement Trusts is different. Ex. P-8 is the copy of the letter vide which the representation of the petitioner was rejected against the order Annexure P-5. Yet another representation Annexure P-9 was made by the petitioner and he made the same prayer for the release of the pay scale at par with that of the Government Junior Engineers, with effect from 1.4.1979.

11. I have heard Shri P.C. Sapra, learned counsel appearing on behalf of the petitioner, Shri Sultan Singh, learned AAG, Haryana, appearing on behalf of respondent No. 1 and Shri R.S. Chahar, learned counsel appearing on behalf of respondents No. 2 and 3 and with their assistance have gone through the record of the case.

12. The sole point for determination is whether the petitioner is entitled to the same grades as that of State which were granted to the Junior Engineers working in the Regular Departments of the State of Haryana with effect from 1.4.1979 and revised further from time to time or not.

13. The learned counsel appearing on behalf of the petitioner submitted that as per Rule 11 -A of the Trust Rules, which governs the scale of pay and allowance, the salary of a Junior Engineer working in the Improvement Trusts cannot be the less than that of the Junior Engineer who was working in the office of the Deputy Commissioner and if no Junior Engineer is working in the office of the Deputy

Commissioner then that of working in the Divisional office of the State Public Works Department B&R. Earlier the Junior Engineers working in the Improvement Trust were deprived of the benefit of revised pay scales with effect from 1.4.1979. Rather they were extended the benefits with effect from 1.4.1985. They were not satisfied with this decision. They, filed the writ petition in the Hon"ble High Court which interpreted Rule 11-A and allowed the writ petition. Under the directions of the High Court the State Government started giving the benefit to the Junior Engineers of the revised pay scales with effect from 1.4.1979 and some of the Junior Engineers started getting the benefit with effect from 1.4.1979. In the case of the petitioner, he has been deprived of this benefit even. In support of his contention, learned counsel for the petitioner relies upon Rule 11-A and also the decision of the Hon"ble High Court.

14. On the contrary, learned counsel appearing on behalf of the respondents submitted that petitioner cannot be granted the benefit of promotional scales because the nature of duties performed by a Junior Engineer of a Trust is different from that of a Junior Engineer working in the P.W.D. B&R Department. The benefit of the ordinary scale has already been granted to the petitioner with effect from 1.4.1979 in compliance to the directions of the High Court and therefore, no further relief is open to the petitioner.

15. I have considered the rival contentions of the parties and in my opinion, this writ should succeed. Rule 11-A lays down as follows :-"No officer or servant in the employment of a Trust shall be given a higher grade of pay than that of the corresponding post in the office of a Deputy Commissioner and where such a post does not exist in the office of the Deputy Commissioner, a grade higher than that of the corresponding post in the Divisional office of the State Public Works Department, B&R Branch." This Rule has been drafted in a negative manner by saying that the pay scale of an officer working in the office of Improvement Trust shall not be higher than that of the corresponding post in the office of Deputy Commissioner or where the corresponding post is not in existence in the office of Deputy Commissioner then it should be taken from the office of Divisional Offices of the State Public Works Department. The proviso to this Rule is not important for us.

16. The Haryana Improvement Trusts Employees Union through its General Secretary filed Civil Writ Petition No. 5969 of 1986 which was decided on 8.12.1987 and it was observed by his Lordship in para No. 5 and 6 of the decision as follows :-

" After hearing the learned counsel for the parties and having examined their pleadings and the material on record, I am of the considered view that the stand taken by the respondents is wholly without any basis. Once the State Government was satisfied that the employees of Improvement Trust (since dissolved) were discharging the same or similar duties which their counterparts working in the offices of the Deputy Commissioners and the Divisional Officers of the P.W.D. B&R Branch, were performing and they were entitled to the grant of the same pay scales

which their counterparts, similarly situated, were receiving, there was no legal justification or warrant for not releasing the same benefit of pay scales etc. to the employees of the Improvement Trusts with effect from 1st April, 1979, the date from which the other employees started receiving the revised pay scales. The date selected in the case of the employees of the Improvement Trusts for the grant of revised pay scale as 1st April, 1985, is wholly arbitrary and seeks to create an artificial classification which has no relevancy with any reasonable or rational basis. Such an artificial classification has been struck down by the Hon"ble Supreme Court in [D.S. Nakara and Others Vs. Union of India \(UOI\)](#), .

6. Consequently, I allow this writ petition and issue a writ of mandamus commending the respondents to release to the employees of the Improvement Trusts (since dissolved in the State of Haryana), represented by their Union, the revised pay scales to which they are entitled in accordance with the rules with effect from 1st April, 1979 and not with effect from 1st April, 1985, as laid down in the impugned notification dated 4th May, 1985 (Annexure P-5). To that extent the impugned notification shall stand modified. They shall also be entitled to the arrears of their salary for the period from 1st April, 1979 to 30th March, 1985, and shall be entitled to the release of the same forthwith according to the revised pay scales. The respondents are further directed to clear the arrears of salary and allowances admissible to the petitioners according to the aforesaid directions, within three months from today. There shall be no order as to costs."

This judgment has become final and so much so on the basis of this judgment the Government issued the revised instructions and gave the benefit of the revised pay scales with effect from 1.4.1979. The reading of the cited judgment would show that his Lordship was of the opinion that once the State Government was satisfied that the employees of the Improvement Trusts were discharging the same and similar duties which their counterparts working in the offices of the Deputy Commissioners and the Divisional Offices of the P.W.D. B&R, were performing, they were entitled to the grant of same pay scales which their counterparts were getting. His Lordship was further of the view that there was no legal justification to deprive the employees of the Improvement Trusts from the same benefits of pay scales etc. which the other employees started receiving on account of the revision of pay scales. Meaning thereby, for all intents and purposes, the Junior Engineers of the Improvement Trusts had to be kept at par with the Junior Engineers of the P.W.D. B&R at all stages on account of the principles of equal pay for equal work.

17. Now, let us see how the pay scales have been revised from time to time with effect from 1.4.1979 of the Junior Engineers working in the P.W.D. B&R. A scale of Rs. 525-1050 was given to the Junior Engineers (Sectional Officers) and this was the time scale. A scale of Rs. 700-1250 was granted as selecting grade for 20% posts with effect from 1.2.1981. The time scale of the Junior Engineers was Rs. 600-1100 and selecting grade was Rs. 700-1250 for 20% posts and from 1.7.1985 the time scale

was Rs. 700-1250 and selection grade was Rs. 800-1400 for 20% posts. Further from 1.1.1986 the time scale was Rs. 1400-2300 and promotional scale was Rs. 1640-2900 available to 50% of the cadre post. From 1.1.1992, the time scale was Rs. 1640-2900 and the promotional scale was Rs. 2000-3200 provided a Junior Engineer completes 15 years of regular and satisfactory service and has not been promoted to the next higher post. Thus, there is no doubt in the mind of this Court that petitioner has to be kept at par at all stages with effect from 1.4.1979 because of the earlier judicial declaration and at one point of time vide annexure P-1 the Government did write to all the Chief Executive Officers of the Improvement Trusts to pay the same grades of pay with effect from 1.4.1979 which grades were being paid to the employees of the other Departments. I reject the contention of the State counsel when it was argued that petitioner will not be entitled to the benefit of the grades of Rs. 1640-2900 in the time scale and the grade of Rs. 2000-3200 which grade is to be given to a Junior Engineer who has completed 15 years of regular service and has a satisfactory service record to his credit. The distinction sought to be drawn by the Government is totally fictitious and has no rationale absolutely. Once the services of the Junior Engineer working in the Trusts were treated at par right from 1979, there is no justification in making an artificial distinction in the promotional scales of Rs. 1640-2900 and Rs. 2000-3200 which became effective with effect from 1.1.1986 and 1.1.1992 respectively.

18. Therefore, I give the declaration in favour of the petitioner that he will be entitled to get the same scales of pay which were given by the Government to the Junior Engineers working in the P.W.D. B&R Department with effect from 1.4.1979 onwards.

19. The learned counsel appearing on behalf of the respondents submitted that the petitioner has already been given the benefit of the revised pay scales up to 1.1.1992 though this fact is being disputed by the petitioner since he was granted anew scale of Rs. 1600-2900.

20. Be that as it may, it is matter of record and calculation. If the petitioner has not been given the benefits, he shall be given the benefit and if the benefit has already been given to the petitioner up to 1.1.1992, his arrears shall be computed in the light of the observation made by me above. Definitely, the petitioner has not been paid the benefit of time scale of Rs. 1640- 2900 and the benefit of selection grade Rs. 2000-3200 from the respective dates when those grades came into force. The petitioner shall be given the benefit of those grades and arrears shall be calculated within three months from the receipt of the copy of this order.

21. Resultantly, this writ petition is allowed by setting aside the impugned orders and it is hereby directed to the respondents to give the benefit of the following scales of the petitioner with effect from the dates as mentioned below:-

Rs. 525-1050 with effect from 1.4.1979.

Rs. 600-1100 with effect from 1.2.1981.

Rs. 700-1250 with effect from 1.7.1985.

Rs. 1400-2300 and Rs. 1640-2900 (Promotional Scale) with effect from 1.1.1986.

Rs. 1640-2900 and Rs. 2000-3200 on completion of 15 years regular service and subject to satisfactory record, with effect from 1.1.1992 till the date of his retirement.

There shall be no order as to costs.

22. Writ petition allowed.