

**(2013) 10 P&H CK 0294**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** Civil Writ Petition No. 4948 of 2012

Satbir Singh and Others

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

etc. etc.

**Date of Decision:** Oct. 11, 2013

**Citation:** (2014) 1 SCT 430

**Hon'ble Judges:** Tejinder Singh Dhindsa, J

**Bench:** Single Bench

**Advocate:** R.K. Arora in CWP Nos. 4948, 5925, 6769, 7189, 7708, 8025, 8426, 9551, 10698, 10722, 10760, 14254, 15964, 16948, 18833, 18973, 19533, 19596 and 23117 of 2012, 4805, 13966, 18649 of 2013, Mr. Ajay Pal Singh in CWP Nos. 14678, 19181 of 2013, Mr. P.K. Goklaney in CWP Nos. 10841, 10874, 10924 of 2012, CWP No. 16230 of 2013, Mr. Vinod Kumar in CWP Nos. 20742 of 2012 and 2835 of 2013, Mr. Surmukh Singh in CWP Nos. 17453 of 2012, 18287 of 2013, Mr. Naveen Batra in CWP Nos. 16516, 20643 of 2012, Mr. Ranjivan Singh in CWP Nos. 10441, 13916, 18208 of 2012 and 2184 of 2013, Mr. Sunny Singla in CWP Nos. 6017, 6606, 6842, 6971, 6995, 7168, 7291, 7302, 7474, 7522, 8002, 8028, 8038, 8498, 8570, 8574, 9555, 9763, 10024, 11227, 11235, 11553, 13340, 15481, 25212, 21238, 26179 of 2012, 2171, 2172, 2173, 3866, 4102, 4401, 5264, 6088, 7098, 8134, 8135, 8193, 8203, 8334, 8634, 8641, 8647, 8749, 8750, 8851, 8893, 8905, 8926, 9151, 10271, 10520, 10532, 10596, 11232, 13814, 14307, 15120, 15209, 15550, 16061, 16852, 16998, 17407, 17424, 17976, 18160, 18477, 8533, 18801, 19113, 19153, 19356, 19417, 19440, 20106, 20193, 20664, 20721, 20726, 20730, 21058, 21147, 21276, 21575, 21601, 21720, 21727, 22049, 22311 of 2013, Mr. Amit Chopra in CWP Nos. 7999, 8062, 11045, 12550, 20699, 23096 of 2012, Ms. Alka Chatrath in CWP Nos. 10723, 14829, 16599, 22726, 23797, 23832, of 2012 and 1249 of 2013, Mr. P.S. Khurana in CWP Nos. 21479, 21497, 25341 of 2012, Mr. Anuj Kohli in CWP Nos. 11037, 17505 of 2012, 1588, 6719, 12779, 17834 of 2013, Mr. Kapil Kakkar in CWP Nos. 3864, 5797, 8154, 8594, 9464, 10797, 13715, 16035, 16898, 21159, 24466 of 2012, 11626 of 2013, Ms. Riti Aggarwal in CWP No. 2171, 15633, 21147, 21276, 21575, 21601 of 2013, Mr. Subhash Aggarwal in CWP Nos. 25514 of 2012, 21201 of 2013, Mr. Tribhawan Singla in CWP No. 18546 of 2013, Mr. M.S. Dhanoa in CWP No. 11316 of 2012, Mr. V.K. Shukla in CWP No. 19514 of 2012, Mr. Arun Dogra in CWP No. 14923 of 2013, Mr. Raj Karan Singh Verka in CWP No. 6145 of 2012, Mr. Surjit Singh Chauhan in CWP No. 16074 of 2012, Mr. Harish Kumar Verma in CWP Nos. 19903, 25941

of 2012, 1740, 15099, 15108 of 2013, Mr. Amar Singh Sandhu in CWP Nos. 18007, 22249 of 2012, Mr. Shashi Kumar Rattan in CWP Nos. 6471, 6761, 10354, 19093, 23484 of 2012, 1492 of 2013, Mr. G.S. Nahel in CWP Nos. 15511, 17321 of 2013, Mr. Vivek Baghla in CWP Nos. 10440, 10691 of 2012, Mr. Vikas Chatrath in CWP Nos. 5600, 6534, 6708, 10827, 10936, 11143, 11238, 11563, 18670, 19799, 20876, 23532, 23497, 24194 of 2012, 4641, 6089, 6553, 6784, 7023, 9799, 10759, 15942, 16299, 19124, 21893 of 2013, Mr. Nirmal Singh in CWP Nos. 6473, 9377, 9696, 11412, 19662 of 2012, 2147, 5286, 9009, 15887, 18689, 19062, 19440 of 2013, Mr. Raj Paul Kansal in CWP Nos. 17711, 21641, 23513 of 2012, 664, 2915, 8211, 17395, 18440, 19653 of 2013, Mr. S.S. Rana in CWP Nos. 12756, 23927 of 2012, Mr. Sarvesh K. Gupta in CWP No. 19344 of 2012, Mr. Rakesh Gupta in CWP Nos. 21382, 21733 of 2013, Mr. Sandeep Arora in CWP Nos. 7443, 10246, 11161, 12376 of 2012, 18489 of 2013, Mr. Sanjeev Kumar Arora in CWP Nos. 5066, 6840, 8601, 9264, 13773, 19152, 22992 of 2012, 1202, 4532, 12545 of 2013, Mr. Arun Takhi in CWP Nos. 8609, 8610, 11787, 20644, 21056 of 2012, 11896 of 2013, Ms. Charanjit Kaur in CWP No. 18206 of 2012 and Mr. Arun Kumar in CWP No. 10520 of 2013, for the Appellant; B.S. Walia, Additional Advocate General, Punjab with Mr. Vivek Swamy, Senior Law Officer, Finance Department, Punjab, for the Respondent

**Final Decision:** Dismissed

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### **Judgement**

Tejinder Singh Dhindsa, J.

This order shall dispose of a bunch\* of 268 petitions, as common issue is involved in all of them. The learned Additional Advocate General, Punjab has made a statement that the reply filed in Civil Writ Petition No. 4948 of 2012 "Satbir Singh and others v. The State of Punjab and others" be adopted for all the other connected petitions. As such, for the sake of brevity and convenience, the pleadings in Civil Writ Petition No. 4948 of 2012 are being adverted to. The challenge in the petition is to the circular dated 5.10.2011, Annexure P9, to the extent that the benefit of revised pay scales to the petitioners who are employees of the Education Department has been granted w.e.f. 1.10.2011. The petitioners instead claim such benefit w.e.f. 1.1.2006 i.e. the date contained in the recommendations of the Fifth Punjab Pay Commission (for short "the Commission").

2. The Commission submitted its report to the Government on 20.4.2009. As per para 4.12 contained in Chapter 4 of the recommendations, the Commission recommended the implementation of the revised pay scales, retrospectively, w.e.f. 1.1.2006. Under Chapter 5 of the report, higher pay scales were recommended for various categories of employees including the category of the petitioners who form part of the teaching personnel under the State Education Department. It so transpires that such recommended higher pay scales did not find a mention in the original report dated 20.4.2009 that was submitted to the State Government, on account of a typographical mistake. Accordingly, Member Secretary of the Commission addressed a communication on the very next day i.e. 21.4.2009,

Annexure P2, to the Chief Secretary, State of Punjab pointing out that in paras 5.31, 5.64 and 8.5 at pages 85, 102 and 159-162 respectively of the report, there were certain typographical mistakes and the same have been corrected and a copy has been duly forwarded so as to ensure that the report of the Commission becomes error free. It would be pertinent to take note that paras 5.31 and 5.64 were in relation to higher pay scales recommended to certain employees under the Health and Family Welfare Department and Education Department, respectively. Para 8.5 was with regard to Dynamic Career Progression Scheme. The State Government, Department of Finance issued notification dated 27.5.2009, Annexure P3, whereby the Punjab Civil Services (Revised Pay) Rules, 2009 (for short "2009 Rules") were notified and the same were deemed to have come into force w.e.f. 1.1.2006. As per 2009 Rules, the revised pay structure was made applicable w.e.f. 1.1.2006 as per the Conversion Fitment Table attached as a Schedule to the Rules showing the revised pay structure corresponding to a particular pre-revised pay scale. The General Conversion Table appended along with 2009 Rules was devised as per recommendations of the report of the Commission. However, the recommended higher pay scales as pointed out in the communication dated 21.4.2009 at Annexure P2 were not granted in terms of the notification dated 27.5.2009 by the State Government. This apparently led to the filing of various representations, at the individual level as also at the union level for grant of revised pay scales to the employees of the Education Department as recommended by the Commission w.e.f. 1.1.2006.

3. The Department of Finance, State of Punjab issued circular dated 5.10.2011, Annexure P9, whereby the upgraded revised pay scales recommended by the Commission have been accepted, but such benefit has been made admissible w.e.f. 1.10.2011. Such circular categorically states that there shall be no element of retrospectivity and there would be no question of payment of arrears or of fixation of pay on notional basis from any previous date.

4. The challenge in the petition is to such circular dated 5.10.2011 limited to the extent of granting the benefit of higher revised pay scales w.e.f. 1.10.2011 instead of 1.1.2006.

5. The thrust of the argument of all the learned counsel appearing on behalf of the employees has been on the alleged violation of Article 14 of the Constitution of India. It has been argued that the State having accepted the recommendations of the Commission as regards revised higher pay scales, it is not entitled to tamper with the same. It is urged that the acceptance of the recommendations of the Commission by the State Government, if at all, has to be in toto, i.e. inclusive of even the date so recommended for implementation of the revised pay scales. A plea of discrimination has been raised by contending that the State Government, while accepting and implementing the recommendations of the Commission, the benefit of higher pay scales has been granted to certain categories w.e.f. 1.1.2006, whereas

such benefit has been granted to the petitioners from a subsequent date i.e. 1.10.2011. Learned counsel appearing for the petitioners would strenuously contend that the action of the State Government is arbitrary as the revision of pay scales upon acceptance of the recommendations of the Commission should have been given effect to w.e.f. 1.1.2006 across the board and for all categories. Another limb of the argument raised is that vide communication dated 21.4.2009, Annexure P2, a typographical error stood corrected in the original report submitted by the Commission and as such, the rectification would relate back to 1.1.2006 i.e. the date the recommendations of the Commission were accepted for all other categories. It has further been argued that the fixation of the cut-off date contained in the impugned circular i.e. 1.10.2011 is without any rational or reasonable basis.

6. In support of the contentions raised by learned counsel appearing for the petitioners, reliance has been placed upon the following judgments of the Hon'ble Supreme Court as also this Court:

1 [Purshottam Lal and Others Vs. Union of India \(UOI\) and Another,](#)

2. A.R. Lamba, Ex. Assistant Director v. Khadi and Village Industries Commission, 2004(3) SCT 362;

3. Swaran Singh and others v. State of Punjab and others (Civil Writ Petition No. 1283 of 1996 decided by a Division Bench of this Court on 7.1.1999);

4. Joginder Singh Saini and others v. State of Punjab and others, 1998(4) RSJ 585 and

5. [Ajmer Singh Vs. State of Haryana and Others,](#)

7. Per contra, Mr. B.S. Walia, learned Additional Advocate General, Punjab would state that the Commission had devised the General Conversion Table for revision of pay scales of all categories of Government employees including that of the petitioners who belong to the Education Department. Learned State counsel would refer to the categoric averments contained in para 3 of the written statement filed on behalf of the State and submit that such General Conversion Table was implemented vide Government notification dated 27.5.2009 w.e.f. 1.1.2006 for all Government employees. It is further submitted that the Commission had recommended upgraded scales of pay for certain categories of employees which were over and above the pay scales contained in the General Conversion Table. Stand of the State Government is that on account of the huge financial implications that were involved towards grant of such upgraded pay scales and the "tight financial position" of the State, the recommendations of the Commission were accepted at a subsequent stage in the light of circular dated 5.10.2011 and by making the upgraded scales of pay admissible purely on a prospective basis w.e.f. 1.10.2011. Learned State counsel would argue that such decision has been adopted on a uniform basis in respect of all such categories of employees for whom the Commission had recommended upgraded scales of pay over and above the General

Conversion Table. There is a complete denial as regards the petitioners, or for that matter, any employee of the State Government having been discriminated against, with regard to the grant of the upgraded pay scales.

8. Learned counsel for the parties have been heard at length and the pleadings on record have been perused minutely.

9. From the judicial precedents cited on behalf of the petitioners, one settled proposition of law that emerges is that if the State Government makes a reference to an expert body in the nature of a Pay Commission in respect of all Government employees and subsequently, accepts the recommendations, it is bound to implement the recommendations in respect of all Government employees. If the State Government does not implement the recommendations of the Commission regarding some employees only, there would be a breach of Articles 14 and 16 of the Constitution of India.

10. Keeping in view such crystallized proposition of law, the task before this Court, at the very outset, would be to ascertain as to whether the State Government has implemented the recommendations of the Commission w.e.f. 1.1.2006 qua a certain category of employees and from a subsequent date for a different set of employees including the present petitioners.

11. To examine such issue, it would be apposite to refer in some detail to the backdrop of the setting up of the Commission and the Scheme of recommendations made by it. Mr. R.K. Chopra, learned Senior Advocate has made available to this Court a complete copy of the report submitted by the Commission.

12. The State had last revised the pay structure of the employees on the basis of recommendations made by the Fourth Punjab Pay Commission vide notification dated 19.5.1998. The Fifth Punjab Pay Commission was constituted by the State Government in terms of notification dated 19.12.2006. The terms of reference of the Commission were issued vide notification dated 3.3.2008 and the same read as under:

i) To examine the principles and the date of effect thereof that should govern the structure of pay, allowances and other facilities/benefits, whether in cash or in kind, to all categories of employees in the State of Punjab to whom the Punjab Civil Services Rules, Volume I, Part I apply, except the employees whose scales of pay have been determined on the recommendations of the University Grants Commission;

ii) To suggest ways and means through which services in the State Government departments can be developed as professionalized, citizen-oriented & citizen-friendly with efficiency and efficacy in governance through the use of modern information and communication technologies. While making such suggestions, special emphasis should be on improving the delivery of public

services to the people, restructuring/reengineering the Government business processes and promoting service deliveries in the Public Sector-Private Sector-Partnership mode;

iii) To work out a comprehensive and simplified pay package for the categories of State Government employees mentioned in (i) above, linked to the measures that promote efficiency, productivity, accountability, responsibility, service orientation discipline and transparency;

iv) While making recommendations, the financial condition of the State, having regard to the provisions of the Punjab Fiscal Responsibilities and Budget Management Act, 2003, be kept in view. To curb non-productive expenditure, the Commission shall suggest a cap on expenditure on salaries, wages and pensions as a percentage of Revenue Receipts of the State and other economy measures to fund the additional expenditure on the implementation of its recommendations. While doing so, new staffing structures/norms may be suggested, having regard to changed role of the Government and I.T. application;

v) To examine the principles which should govern the structure of pension, death-cum-retirement gratuity, family pension and other terminal or recurring benefits having financial implications to the present and former State Government employees, appointed before January 1, 2004;

vi) To examine the Assured Career Progression Scheme; and

vii) To examine the issue of Fixed Medical Allowance/reimbursement of medical expenditure along with the aspect of other better alternatives/possibilities such as Medical Insurance etc. in this regard.

13. Chapter 4 of the report submitted by the Commission deals with the recommendations of Pay Structure, Fixation and Age of Retirement. As per para 4.10, the revised basic pay of an employee is to consist of two components, one as Pay in the Pay Band and the other as Grade Pay attached to the post of an employee. Under para 4.12, the Commission recommended that the revised pay scales be implemented w.e.f. 1.1.2006. Para 4.14 provides a General Conversion Table i.e. a brief summary of the Pay Bands, the Grade Pay and grouping applicable to the corresponding unrevised pay scales of the employees. The Commission recommended the fixation of the pay in the revised pay scales of the existing employees as per the Fitment Tables given at the end of Chapter 4. Chapter 5 of the report contains recommendations on upgradation and change in designation. In para 5.1 of Chapter 5, the Commission takes note of the fact that it did not receive any representation/petition/memorandum from employees of certain Departments of the State i.e. Housing and Urban Development; Tourism; Defence Services Welfare; Local Government; Civil Aviation; Science, Technology, Environment and Non-conventional Energy; Parliamentary Affairs; Removal of Grievances; Non-resident Indian's Affairs; Programme Implementation and Architecture.

Accordingly, the Commission recommended that the pay scales of the employees of the afore-noticed Departments would be determined as per the General Conversion/Fitment Tables furnished in Chapter 4. However, the request/demands of employees of other Departments were dealt with by the Commission and in the case of some Departments were even accepted to a certain extent. By way of instance, under para 5.13, the Commission recommended that the post of Joint Directors (Statistics) in the Directorate of Agriculture be upgraded from Rs. 10025-15100 to Rs. 13500-18600 at par with other Joint Directors. Likewise, it was also recommended that the Tubewell Boring staff and different categories within Group "D", namely, Well Borer, Office Borer/Mate and Helper be merged and re-designated as Boring Mate in the unrevised pay scale of Rs. 2720-4260 while the category of employees, such as Hamerman, Store Khalasi be merged and re-designated as Boring Helper in the unrevised pay scale of Rs. 2620-4140. Under the Department of Home Affairs and Justice, the Commission in para 5.24 recommended a higher grade for Director of the Forensic Laboratory and in the Police Force also, recommended upgraded pay scales for the post of Constables, Head Constables, Assistant Sub Inspectors, Sub Inspectors and Inspectors in the light of scales given by the Government of India. Under para 5.30 and 5.31, employees of Health and Family Welfare Department holding designation of Junior Analytical Assistant, Senior Analytical Assistant, Analyst, Deputy Public Analyst, Assistant Chemical Examiner, Deputy Chemical examiner, Public Analyst, Government Analyst apart from Nursing Staff were also recommended higher pay scales. Likewise, under para 5.64, the employees falling to the category of the petitioners under the Education Department were also recommended higher pay scale. A similar recommendation was made for employees of the Department of Medical Education and Research under para 5.69 and in the light thereof, the Director, Medical Education and Research, Principals of Government Medical Colleges and Teachers in Medical Education and Research were recommended parity in the pay scales with equivalent posts under Government of India. It would be pertinent to note at this stage that the recommendations of higher pay scales/upgraded pay scales as specifically noticed hereinabove were over and above the pay scales in the General Conversion/Fitment Tables furnished in Chapter 4 of the report.

14. The categoric stand of the State Government is that the recommendations as regards upgraded scales over and above the General Conversion/Fitment Tables contained in Chapter 5 of the report of the Commission have been accepted and implemented but w.e.f. 1.10.2011 in the light of circular dated 5.10.2011 at Annexure P9. It is only the revised scales as per General Conversion Table/Fitment Table formulated by the Commission that has been granted to all categories of Government employees w.e.f. 1.1.2006 in the light of Government notification dated 27.5.2009. Such categoric assertion and stand taken in the written statement filed on behalf of the State has not met with any rebuttal by the petitioners. Learned

counsel appearing for the petitioners have not been able to advert to even a single instance wherein the upgraded/higher revised pay scales as recommended by the Commission over and above the revised scales contained in the General Conversion/Fitment Tables may have been granted to any category of employees w.e.f. 1.1.2006.

15. To the contrary, Mr. Walia, learned Additional Advocate General, Punjab, during the course of hearing, produced before the Court various circulars carrying even date i.e. 5.10.2011 in terms of which the recommendations of the Commission for grant of upgraded scales have been implemented w.e.f. 1.10.2011 in respect of employees of different Departments. A reference to the same would be necessary.

16. The position that emerges is that the entire edifice built by the petitioners in terms of contending that certain categories of employees have been granted the benefit of upgraded pay scales, upon acceptance of the recommendations of the Commission, w.e.f. 1.1.2006 as opposed to certain other categories like that of the petitioners under the Education Department with effect from a subsequent date i.e. 1.10.2011, is based on a factually incorrect premise. Equally misplaced and without merit is the contention raised on behalf of the petitioners that the typographical error that stood corrected vide letter dated 21.4.2009 at Annexure P2 was to relate back to 1.1.2006 i.e. the date of implementation recommended by the Commission. This is, precisely, for the reason that even with respect to categories of employees of other Departments i.e. Agriculture, Home Affairs and Justice, Medical Education of Research and where there was no error in the original report dated 20.4.2009, even for such employees the upgraded/revised pay scales have been made admissible w.e.f. 1.10.2011.

17. As such, this Court would have no hesitation in holding that the action of the State Government is neither arbitrary nor discriminatory and there has been no breach of Articles 14 and 16 of the Constitution of India insofar as the date of implementation of the upgraded pay scales for different categories of employees in the light of the recommendations of the Commission are concerned.

18. The only issue that now survives for consideration is as to whether it was open for the State to have accepted and implemented the recommendations of the Commission as regards revised/upgraded pay scales but from a subsequent date to the one indicated in the recommendations itself?

19. Admittedly, the terms of reference of the Commission were not only to make recommendations as regards revised structure of pay but even included the examination as regards the date of effect of such recommendations against the backdrop of the financial condition of the State. The Commission has recommended that the revised pay scales be implemented w.e.f. 1.1.2006.

20. The Commission is in the nature of an expert body that would undertake the intricate exercise of evaluating the relevant parameters viz. qualifications, mode of

recruitment, degree of responsibility, job content etc. while recommending a particular pay scale/higher pay scale for a certain category of employees. However, such recommendations would not be binding upon the State Government. It would be open for the State Government to deviate from the recommendations made by the Commission but on a rational and cogent basis. In K.S. Krishnaswamy etc. Vs. Union of India (UOI) and Another,, the Hon"ble Supreme Court observed:

It is well settled principle of law that recommendations of the Pay Commission are subject to the acceptance/rejection with modifications of the appropriate Government.

21. In Union of India Vs. P.N. Menon and others, a question arose before the Hon"ble Supreme Court with regard to fixing of cut-off date for payment of gratuity and pension which had been stipulated as 30th September, 1997. While repelling the challenge to the fixation of such date, it was observed as under:

Whenever the Government or an authority which can be held to be a State within the meaning of Article 12 of the Constitution, frames a scheme for persons who have superannuated from service, due to many constraints, it is not always possible to extend the same benefits to one and all, irrespective of the dates of superannuation. As such any revised scheme in respect of post-retirement benefits, if implemented with a cut-off date, which can be held to be reasonable and rational in the light of Article 14 of the Constitution, need not be held to be invalid. It shall not amount to "picking out a date from the hat" as was said by this Court in the case of D.R. Nim v. Union of India, in connection with fixation of seniority. Whenever a revision takes places, a cut-off date becomes imperative because the benefit has to be allowed within the financial resources available with the Government.

22. In P.N. Menon"s case (supra), such principle was held to apply even in respect of revision of scales of pay and it had been observed to the following effect:

Not only in matters of revising the pensionary benefits, but even in respect of revision of scales of pay, a cut-off date on some rational or reasonable basis, has to be fixed for extending the benefits.

23. Financial resources/implications would be a relevant criterion for the State Government to determine as to what benefits can be granted pursuant to or in furtherance of the recommendations made by a Commission and with effect from which date. In State of Punjab and Others Vs. Amar Nath Goyal and Others, the Hon"ble Supreme Court upon consideration of a large number of decisions had opined as follows:

It is trite that, the final recommendations of the Pay Commission were not ipso facto binding on the Government as the Government had to accept and implement the recommendations of the Pay Commission consistent with its financial position.

24. Chapter 2 of the report submitted by the Commission deals with the Economy of the State and its Fiscal Health. The Commission has noticed that the State of Punjab has experienced an erosion in terms of per capita income over the years. In para 2.13 contained in Chapter 2, the Commission takes stock of the Fiscal Health and observes that Punjab Economy has been experiencing deceleration in its rate of growth and its high profile sector, namely, agriculture has been passing through a turbulent period. The industrial sector has also been stagnating. Commission further notices in para 2.14 that the visible symptom of Fiscal stress is the magnitude of the revenue deficit. It was Rs. 450 crores in 1995-96 and has been increasing ever since. In para 2.18, the Commission notices the trend of the revenue and fiscal deficits and opines that such trend is non-sustainable in the long run and may result in pushing the State into a debt trap. The Commission in spite of taking stock of the grim financial scenario of the State, still paints an optimistic picture in paras 2.29/2.32 and exudes confidence as regards the Government's capacity to meet the additional liability likely to accrue on account of implementations of the recommendations of the Commission on four parameters. Firstly, the Commission observes that the State had huge potential for additional resources which need to be tapped by devising suitable tax policies. Secondly, the Commission banks on the likelihood of the State getting more resources from the Centre on the recommendations of the 13th National Finance Commission so as to ease the fiscal burden. Thirdly, the Government by implementing the recommendations of its Expenditure Reforms Commission would contain unproductive expenditure and lastly, the Commission seems sanguine that the implementation of the recommendations of the Commission itself would encourage employees to work with added dedication and integrity so that tangible improvements in the delivery of public services and higher productivity would help in reducing the fiscal deficit and accelerating the rate of growth in the economy.

25. It is on such broad and overly optimistic reasoning that the Commission has recommended 1.1.2006 as the date for implementation of the revised pay scales. Be that as it may, the final obiter as regards the financial resources available and financial implications resulting upon acceptance and implementation of the recommendations of the Commission would be the employer/State. In the reply, the State has in no uncertain terms referred to the huge financial implications upon grant of upgraded pay scales coupled with the grim financial health. It has been stated that an Implementation Committee was constituted by the Government to consider and implement the recommendations of the Commission and as such, a conscious decision was taken to grant the pay scales recommended as per General Conversion Table w.e.f. 1.1.2006 vide notification dated 27.5.2009. The pay scales recommended over and above the General Conversion Table in respect of certain categories of employees have been granted vide circular dated 5.10.2011 and made admissible w.e.f. 1.10.2011. The categoric plea is that the Government was not in a position to implement and grant such scales from a retrospective date i.e. 1.1.2006

as recommended by the Commission. In para 1 of the preliminary submissions contained in the reply, a sum of Rs. 6,23,02267/- (six crores, twenty three lacs, two thousand two hundred and sixty seven) has been quantified as the financial liability only as regards the petitioners in Civil Writ Petition No. 4948 of 2012 if the upgraded pay scales were to be granted w.e.f. 1.1.2006. For that matter, in Chapter 11 of the report submitted by the Commission, the financial implications upon acceptance of the recommendations have been indicated and in para 11.4, the Commission itself has estimated that the arrears on account of salary increase for the period 1.1.2006 to 31.3.2009 would be Rs. 3450 crores. This is a staggering and humongous amount.

26. The State Government has taken a decision not to implement and grant the upgraded pay scales over and above the General Conversion Table as recommended by the Commission w.e.f. 1.1.2006 in the light of its financial position. In such situation, this Court in exercise of its extra-ordinary writ jurisdiction would not step in to issue a writ of mandamus to command the State otherwise. The decision of the State cannot be said to be vitiated by any extraneous consideration or perverse appreciation of the financial circumstances prevailing. This Court does not find any basis that would warrant interference in the same.

27. Before parting with the judgment, there is one aspect of the matter which would require intervention. In this bunch of petitions, it is noticed that in respect of certain categories of employees benefit of upgraded pay structure over and above the General Conversion Table has been made admissible w.e.f. 1.11.2011/1.12.2011. In the reply filed in Civil Writ Petition No. 4948 of 2012, the stand of the State Government is unequivocal that the pay scales as per General Conversion Table devised by the Commission stand implemented vide Government notification dated 27.5.2009 w.e.f. 1.1.2006 for all Government employees. Further stand is that the upgraded scales of pay recommended by the Commission over and above the General Conversion Table have been made admissible w.e.f. 1.10.2011 on a uniform basis. The State Government would be held bound by such stand. Accordingly, it is directed that in respect of any such category of employees in this bunch of petitions wherein the upgraded pay scale had been recommended by the Commission over and above the General Conversion Table, the same shall be made admissible w.e.f. 1.10.2011 to ensure uniformity. The requisite corrective action/orders in this regard would be issued within a period of one month from the date of receipt of this order. But for such limited intervention as indicated hereinabove, there is no merit in these petitions and the same are, accordingly, dismissed.