

## Satbir Singh Vs State of Punjab

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

**Date of Decision:** Aug. 4, 2014

**Acts Referred:** Constitution of India, 1950 Article 12, 14, 16

**Citation:** (2015) 177 PLR 237 : (2014) 4 SCT 556 : (2015) 1 SLJ 322

**Hon'ble Judges:** Satish Kumar Mittal, J; Arun Palli, J

**Bench:** Division Bench

**Advocate:** R.K. Arora, Sanjeev Kumar Arora, Sunny Singla, Alka Chatrath, S.K. Rattan, Vikas Chatrath, V.K. Shukla and Raj Paul Kansal, Advocate for the Appellant

### Judgement

Arun Palli, J.

These are intra-court appeals, under Clause X of the Letters Patent, against an order dated 11.10.2013 passed by the learned Single Judge, vide which the civil writ petitions preferred by the appellants were dismissed by a common order. Likewise, vide this order

we shall dispose of a bunch of 99 appeals. What was assailed and in question before the learned Single Judge was a circular dated 05.10.2011, to

the extent the benefit of revised pay scales to the appellants, who happened to be the employees of Education department, was granted w.e.f.

01.10.2011. Whereas, they claimed the said benefit w.e.f. 01.01.2006, as recommended by the 5th Punjab Pay Commission (for short, "the

Commission"). But, what indeed led to this stage, is something, that would be expedient to notice.

2. The Commission submitted its report to the Government on 20.04.2009. Para 4.12 of Chapter 4 of the recommendations show that the

Commission had recommended the implementation of the revised pay scales w.e.f. 01.01.2006. As per para 5.64 of Chapter 5 of the report,

higher pay scales were recommended for various categories of employees including the category of the appellants, who formed part of the teaching

personnel under the State Education Department. Likewise, under para 5.31, higher pay scales were also recommended to certain employees of

the Department of Health and Family Welfare. We discern from the records that on account of typographical mistake, recommendation vis-a-vis

the higher scales of pay did not find mention in the original report that was submitted to the State Government. However, Member Secretary of

the Commission, vide a communication dated 21.04.2009, addressed to the Chief Secretary, State of Punjab, pointed out that the typographical

mistakes in paras 5.31, 5.64 and 8.5 at pages 85, 102 and 159-162, respectively, were rectified and a copy thereof was duly forwarded.

Pursuant to a notification dated 27.05.2009 (Annexure P-3), issued by the State Government, the Punjab Civil Services (Revised Pay) Rules,

2009 [for short, "2009 Rules"] were notified and the same were deemed to have come in operation w.e.f. 01.01.2006. Under 2009 Rules, the

revised pay structure was made applicable w.e.f. 01.01.2006 as per the Conversion Fitment Table annexed as a Schedule to the Rules showing a

revised pay structure corresponding to a particular pre-revised pay scale. General Conversion Table, appended with the 2009 Rules, was devised

in consonance with the recommendations of the report of the Commission. However, it would be apposite to point out, at this juncture, that the

recommended higher pay scales, as pointed out in the communication dated 21.04.2009, were not granted in terms of the notification dated

27.05.2009 by the State. Subsequently, the Department of Finance, State of Punjab, issued a circular dated 05.10.2011 (Annexure P-9), vide

which the upgraded revised scales of pay recommended by the Commission were accepted, but the said benefit was made admissible w.e.f.

01.10.2011. The said circular recites in no uncertain terms that the pay in the revised scales shall be fixed prospectively and there would be no

question of payment of arrears or fixation of pay on notional basis from any previous date. Which is why, circular dated 05.10.2011 was assailed

by the appellants to the limited extent of granting the benefit of higher revised pay scales w.e.f. 01.10.2011 instead of 01.01.2006.

3. In essence, what was urged before the learned Single Judge was that once the State Government had accepted the recommendations of the

Commission as regards the revised higher pay scales, acceptance of the recommendations of the Commission had to be in toto i.e. inclusive of

even the date recommended for implementation of the revised higher pay scales. Further, the State Government in process of implementing the

recommendations of the Commission, afforded the benefit of higher pay scales to certain specific categories w.e.f. 01.01.2006, whereas, the said

benefit was granted to the appellants from the subsequent date i.e. 01.10.2011. Thus, the appellants pleaded discrimination. Still further, fixation of

the cut-off date contained in the circular i.e. 01.10.2011, was purported to be without any plausible justification.

4. Learned Single Judge, on a consideration of the matter in issue and the material on record at length, arrived at a conclusion that the

recommendations vis-a-vis the higher pay scales/upgraded pay scales by the Commission were over and above the pay scales in the General

Conversion/Fitment Tables furnished in Chapter 4 of the report. It was further noticed that the specific stand set out by the State was that the

recommendations as regards to the upgraded scales over and above the General Conversion/Fitment Tables were indeed accepted and

implemented w.e.f. 01.10.2011 pursuant to the circular dated 05.10.2011. Thus, only the revised scales in consonance with the General

Conversion Table/Fitment Table, formulated by the Commission, that had been granted to all categories of Government employees w.e.f.

01.01.2006. Further, not even a single instance could be referred to wherein the upgraded/higher revised pay scales over and above the revised

pay scales contained in the General Conversion Table/Fitment Table, was granted to any category of the employees w.e.f. 01.01.2006. Even to

the employees of other departments i.e. Agriculture, Home Affairs & Justice, Medical Education of Research, the upgraded/revised pay scales

were made admissible w.e.f. 01.10.2011. That being so, the grievance of the appellants that the benefit of upgraded pay scales was afforded to

certain categories of employees w.e.f. 01.01.2006 was found to be misplaced and predicated on a misconceived premise. Therefore, it was held

that the action of the State Government was neither arbitrary nor discriminatory, and there had 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 was concerned. Vis-a-

vis the only other issue i.e. whether it was within the domain of the State Government to have accepted and implemented the recommendations of

the Commission as regards the revised/upgraded pay scales from a subsequent date to the one indicated by the Commission in its

recommendations. It is deemed apposite, at this juncture, to refer to the analysis drawn by the learned Single Judge with a detailed reference to

various decisions of Hon"ble the Supreme Court on the issue, and the same reads as thus:

...In K.S. Krishanawamy v. Union of India and another, 2007(1) SCT 353, 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.

22. 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 benefit 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 connected 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.

23. 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.

24. 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.

5. Thus, it was concluded that the financial resources/implications would be relevant criterion for the State to determine as to what benefits could

be granted pursuant to the recommendations made by the Commission and with effect from which date. It was observed that it would be open for

the State to deviate from the recommendations made by the Commission but on a reasonable and rational basis. Grim financial health of the State

and granting upgraded pay scales would entail huge financial implications, were the factors taken note of by the learned Single Judge. It was

noticed 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 scales recommended in consonance with the General Conversion Table w.e.f.

01.01.2006 vide notification dated 27.05.2009. The State had pleaded that it was not in a position to grant higher scales of pay retrospectively i.e.

01.01.2006, as recommended by the Commission. It was pointed out that if the upgraded scales of pay were to be granted to the appellants in

Civil Writ Petition No. 4948 of 2012 w.e.f. 01.01.2006, that alone would cast a financial liability of sum of Rs. 6,23,02,267/- (Six crores, twenty

three lacs, two thousand two hundred and sixty seven). In fact, para 11.4 of the report of the Commission itself suggests that the estimated arrears

on account of salary increase for the period of 01.01.2006 to 31.03.2009 would be Rs. 3,450 crores. Thus, the State had taken a conscious

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. 01.01.2006. That being so, learned Single Judge dismissed the petition being devoid of merits.

We have heard the learned counsel for the appellants in these appeals and perused the records.

6. Learned counsel for the appellants simply seek to reiterate the submissions that were considered and rejected by the learned Single Judge. An

analysis of the position as set out above brings to fore an irresistible and inescapable conclusion that:

(a) The recommendations of higher pay scales/upgraded pay scales by the Commission were over and above the pay scales in the General

Conversion/Fitment Tables furnished in Chapter 4 of the report;

(b) The revised scales of pay in consonance with the General Conversion Table/Fitment Table were granted to all categories of Government

employees across the board including the appellants w.e.f. 01.01.2006;

(c) The recommendations of the Commission vis-a-vis the upgraded scales of pay for certain categories of Government employees, which were

over and above the pay scales contained in the General Conversion Table, were accepted vide circular dated 05.10.2011 w.e.f. 01.10.2011 and

the said decision was adopted uniformly in respect of all categories of employees for whom the Commission had recommended the upgraded

scales of pay;

(d) Not even a single instance could be referred to where the said benefit was extended to any category from an earlier date or w.e.f. 01.01.2006;

(e) The recommendations of the Pay Commission were not ipso facto binding on the Government and it was well within its domain to even fix a

cut-off date i.e. 01.10.2011, contained in the circular dated 05.10.2011. And the reason assigned in this regard i.e. ""Tight Financial Position"" of

the State, was wholly justifiable and tenable in law.

Ex facie, in the wake of the position as culled out above, there hardly exists any ground, least plausible in law, to interfere with indeed a reasoned

and comprehensive order, rendered by the learned Single Judge. Learned counsel for the appellants could not point out as to how the conclusions

arrived at by the learned Single Judge were either contrary to the principles of law or the position on record. Appeals being devoid of merit are,

accordingly, dismissed.