

SUPREME COURT OF INDIA

State of Punjab

Vs.

Paramjit Singh

C.A.Nos.2092 and 2093 of 1997

(Brijesh Kumar and Arun Kumar JJ.)

16.10.2003

ORDER

1. The State of Punjab has preferred these appeals against the Judgments and orders of the Punjab & Haryana High Court by which the respondents were held to be entitled to the pay-scale of Rs. 1800-3200 with effect from 1.1.1986, which scale was made admissible earlier to the Assistants working in Class A and Class B offices.

2. The petitioners before the High Court, who are respondents in these appeals, form a category of officials consisting of Art-cum-Lettering Expert, Production Artist, Art Assistant, Layout Artist, Painting Artist and Artist-cum-Photographer. According to a chart furnished by the learned counsel for the State, it is evident that the scale of pay of these officials working under different designations indicated above, had been in the pay scale of Rs. 250-550/-. Later on with effect from 1.1.1978, the Production Artists and Painting Artists were placed in the pay-scale of Rs. 570-1080/- whereas the remaining four posts were placed in the pay-scale of Rs. 620-1200/-. In the Third Punjab Pay Commission Report they were all placed in one scale, namely, Rs. 1500-2640/- with effect from 1.1.1986.

3. As against the above, the case of the respondents before the High Court was that the Assistants working in Class A and Class B offices have also been in the pay-scale of Rs. 600-1120/- and Rs. 570-1080. They had also been recommended the pay scale of Rs. 1500-2640/- by the Pay Commission. But later on, the State Government by notification issued on June 15, 1990, made the pay-scale of Rs. 1800-3200/- admissible to the aforesaid Assistants but the same treatment was not meted out to the respondents by the Government though the Third Punjab Pay Commission had recommended one pay-scale for both. From the chart furnished by the learned counsel for the State of Punjab it appears that in 1968 when the scale of pay of Artist-cum-Photographers etc. had been in the scale of Rs.250-550/- the Assistants had been in the pay-scale of Rs. 160-400/-. Later on they were brought in almost equal pay-scales, namely, Rs. 600-1120/- and Rs. 570-1080/-. In the Third Punjab Pay Commission, however, they had been recommended the pay-scale of Rs. 1500-2640/- like the respondents. The High Court considering the above position and relying upon a decision of the same High Court in the case of *Haryana State Biologists Association v. State of*

*Haryana and Anr.*¹ holding that once the parity in the pay-scales of two cadres of employees is granted the same cannot be withdrawn or disturbed depriving one class or category of the same pay. The High Court thus found that a conscious decision was taken and the respondents who were petitioners in the High Court could not be deprived of the scale of pay of Rs. 1800-3200/- which was made admissible to the Assistants who were also recommended the same scale of pay by the Third Punjab Pay Commission as for the respondents.

4. The State has come up in appeal against the decisions of the High Court, mainly, on the ground that the decision in the case of Haryana State Biologists Association (supra) has been later on reversed by this Court. A copy of the Judgment of this Court in the above case has also been annexed by the respondents. It may be indicated that the above noted case dealt with the parity in the pay-scale of Biologists and the Medical Officers and in that context the question was considered. Yet another fact which was taken into account in that case was that the Medical Officers were also drawing Non Practising Allowance though at some stage the scale of pay of the Biologists and the Medical Officers happened to be the same. This Court observed that there has not been parity at all times and that the Non Practising Allowance was admissible to the Medical Officers over and above the pay-scales admissible to them. Therefore, the same pay-scale during certain period would not be a valid criteria to grant them the same scale of pay. The decision in the case of Haryana State Biologists Association (supra) was, therefore, set aside.

5. In so far as the case in hand is concerned we find that under para 8.9 of the Third Punjab Pay Commission the existing scales of pay were converted and revised by way of general conversion. In that exercise of conversion of the existing pay-scales/ the scales of pay of Rs. 570-1080/-, Rs. 610-1100/-, Rs. 620-1200/- and Rs. 680-1150/- were all converted into Rs. 1500-2640/-. The respondents fell in this category and hence their scale of pay was recommended to be revised as above. So far as the Assistants are concerned, we find that their case has been dealt with separately and in that connection para 25.13 of the Third Pay Commission is relevant which says that keeping all relevant facts into consideration, the pay-scale of Rs. 1500-2640/- was recommended for Assistants. It is categorically mentioned that for reasons generally indicated in para 25.6, senior scale was not recommended for the category of Assistants. Para 25.6 particularly deals with the pay-scale of Assistants and the reasons for not providing senior scale to them. However, despite and against the recommendations of the Pay Commission, in June 1990, the Assistants in the secretariat and in Class A and Class B offices have been given the pay-scales of Rs. 1800-3200/-. On behalf of the respondents' it is submitted that though they have not been pressing their case on the basis of their qualifications' as Artists as they are supposed to have different specialized qualifications of five years courses but in view of the nature of their duties and responsibilities, reasonably the respondents were also entitled to be placed in the same scale of pay as that of Assistants, if not higher.

6. So far as the appellants are concerned their case in the High Court had been that the Third Punjab Pay Commission had recommended a different pay-scale for the Assistants. The learned counsel for the respondents has vehemently urged that their definite case was that the

Assistants were recommended higher pay-scale by the Third Punjab Pay Commission which is factually incorrect on the face of it. Rather on the other hand, the Pay Commission was categorical about the fact that senior scale was not to be made admissible to the Assistants. But despite that recommendation a different decision has been taken, without indicating the reason for taking that decision, placing the Assistants in the scale of pay of Rs. 1800-3200/-. It is submitted on behalf of the respondents that the reason for providing higher scale of pay to the Assistants despite the recommendations of the Pay Commission to the contrary, was that the Assistants had resorted to the agitational course and had gone on strike for better pay-scales. However, we would not like to guess about the reason for issuing the notification by the Government except to mention the reason as indicated by the learned counsel for the respondents. But none could be indicated by the State counsel.

7. It is again indicated that by means of yet another notification dated May 9, 1991, filed along with the rejoinder affidavit, that the Artist-cum-Draftsmen in another department, who were earlier in the pay-scale of Rs. 620-1200/- their pay scale was revised to Rs. 1800-3200/- and the Draftsmen in the pay-scale of Rs. 570-1080/- their scale was also revised similarly. But it was not done so in respect of the respondents working in the department of Information and Public Relation. Reference to a decision of this Court in *State of U.P. and Ors. v. U.P. Sales Tax Officers Grade-II Association*² has also been made on the question of recommendation of the Pay Commission and its acceptance and implementation by the State Government. It is also submitted that if the State had not taken incorrect stand before the High Court that the Third Pay Commission had recommended different pay-scale for the Assistants, the High Court might have examined the matter taking into account other material and questions as well.

8. Since we have noted that the judgments of the High Court impugned in these appeals are mainly based on the decision in the case of Haryana State Biologists Association (supra) which has been reversed later by this Court, the impugned Judgment has to be set aside. But it would be desirable and fair in equity that other aspects of the matter may be considered and examined by the High Court, namely, the recommendations as made by the Third Punjab Pay Commission, which of course recommended same pay-scale for the Assistants and the subsequent notifications issued in June 1990 and September 1991 referred to above or any other further notification implementing or revising the pay-scales. It shall also examine the question as to why it was not possible for the State to accede the request made by the respondents for the pay-scale of Rs. 1800-3200/- while it had provided the said scale for the Assistants against the specific recommendations of the Pay Commission.

9. In the result, the appeals are allowed and the orders passed by the High Court are set aside. But we remand the matter to the High Court to consider it afresh in the light of the observations made above. It will be open for the parties to place all relevant material on record, including the recommendations of the Pay Commission and the relevant notifications issued by the State Government. There shall, however, be no order as to costs.

¹1994(2) PLR 389

²[2003] 3 SCR 617