

Before Permod Kohli, J

BALBIR SINGH & OTHER,—Petitioners

versus

STATE OF PUNJAB AND ANOTHERS,—Respondents

C.W.P. No. 16380 of 1989
and other connected writ petitions

7th May, 2009

Constitution of India, 1950—Art.226—Punjab Education Service Class-III (Cadre) Rules, 1955—RI.10—Punjab Government granting additional benefit to teachers with higher qualifications—State Government accepting recommendations of Pay Commission revising pay scales of teachers—State Government placing in lower pay scales to Art and Craft, PTI/MTI teachers than recommended by Pay Commission—Whether State Government after acceptance of recommendations of Pay Commission is entitled to temper with it and again classify/re-classify set of employees brought under one cluster—Held, no—State cannot apply different parameters or yardsticks to same set of employees who are otherwise in same cadre/cluster—Recommendations of Pay Commission cannot be brushed aside lightly in an arbitrary manner.

Held, that once the State accepts the recommendations of the Pay Commission, it has no discretion to implement it differently for one set of employees than the other set of employees. Particularly it cannot apply different parameters or yardsticks to the same set of employees, who are otherwise in the same cadre/cluster that too without the issue being examined by the expert body. The Pay Commission is admittedly an expert body and its recommendations should not and cannot be brushed aside lightly in an arbitrary manner. The plea raised by the respondent-State that they are performing different duties is of no consequence. The petitioners are not invoking the doctrine of equal pay for equal work rather their contention is that all along they have been treated as members of the one category of service and were placed in the same pay scale and the Third Pay

Commission recommended that same pay scales for the petitioners and other categories but were sought to be segregated by the Government in gross contravention of the recommendations of the Pay Commission.

(Para 12)

Ms. Maninder, Advocate.

Gurcharan Singh, Advocate.

K. K. Kahlon, Advocate.

Yatinder Sharma, D.A.G., Punjab.

PERMOD KOHLI, J. (ORAL)

(1) Since common questions of facts and law arise in these petitions, all these petitions are taken up together for disposal.

(2) The moot point involved in the present petitions is whether the State after acceptance of the recommendations of the Pay Commission is entitled to temper with it and again classify/re-classify the set of the employees brought under one cluster by the Pay Commission the expert body without having got the matter re-examined either by the Pay Commission or any other expert body. It may be useful to briefly notice the factual background leading to the filing of the present petitions.

(3) The Education Department of State of Punjab created a cadre known as classical and vernacular cadre comprising of language and other teachers including Hindi, Punjabi, Sanskrit, Persian, Urdu, PTI, Art and Craft, Drawing Teachers, Manual Training Instructors (MTI) and Agriculture Instructors. All these cadres were having a common seniority at District level. The services of these classical and vernacular teachers were governed by the statutory rules known as Punjab Education Service Class III (Cadre) Rules, 1955. Rule 10 of the aforesaid rules provides that the pay scales of members of service will be such as may be authorised by the Governor from time to time. The pay scales belonging to the teachers for all these categories were specified in Appendix 'A' to the rules. It was Rs. 50—120 at the time of framing of the rules.

(4) The State of Punjab issued Circular, dated 23rd July, 1957 whereby the additional benefit was granted to the teachers with higher qualifications irrespective of the posts they were holding. Two categories were classified; category 'A' and 'B'. Those teachers who were B.A. B.Ed were placed in category 'A', whereas all other teachers possessing Sanskrit, Giani, Prabhakar, Drawing Masters, Arts and Craftman Certificate holders, Training in Physical Education and Agriculture were placed in 'B' category, which was further divided into different categories. It was also provided that 15% of the classical and vernacular teachers shall be entitled to the pay scale of Rs. 140—200, 35% of such teachers were placed in the pay scale of Rs. 120—175 and the remaining 50% in the pay scale of Rs. 60—120. The aforesaid policy decision further granted additional benefit of three increments to the teachers, who were teaching with qualifications like Prabhakar, Giani, Arts and Crafts, Drawing Masters and five increments for the teachers possessing Shastri as qualification. The vires of this circular were upheld up to the Hon'ble Supreme Court.

(5) The pay scales of the classical and vernacular teachers were revised,—*vide* letter dated 4th June, 1971 with effect from 1st November, 1971. 70% of the classical and vernacular teachers were granted pay scale of Rs. 170—350, whereas the remaining 30% were granted the selection grade of Rs. 220—430. Under the aforesaid pay revision again the benefit of three increments was given to the teachers, who were teaching in subject like Hindi, Punjabi, Art and Craft, whereas five advance increments were granted to the Shastri Teachers. The State of Punjab constituted the Second Pay Commission for the revision of the pay scales of the Punjab Government employees. The recommendations of the Second Pay Commission were received by the State and accepted. In respect to the classical and vernacular teachers the Pay Commission made following recommendations :—

“31.9. This cadre comprises of Punjabi/Hindi/ Sanskrit/Persian/Urdu teachers/P.T.Is/Art and Craft/Drawing Teachers/Manual Training Instructors and Agriculture Instructors. The prescribed qualifications for these categories are Honours in the relevant

language with O.T./S.T.V or two years J.B.T. Course, Matric with certificate in Physical Education/Matric with Diploma in Art and Craft, Matric with STC/JBT with one year's training in Agriculture. All the appointments are made by direct recruitment. The last Pay Commission recommended selection grade of Rs. 220—430 at 30 per cent and 5 advance increments to Shastries and 3 advance increments to Gyanis/Prabhakars and Drawing Masters. These teachers have demanded the scale of Rs. 500—900 (pre-revised) with the Selection Grade of Rs. 750—1250 (pre-revised) Art and Craft teachers have demanded parity with College Lecturers. The Head of the Department has recommended for the pay scale of Rs. 650—1000 (pre-revised). There is no justification to grant them parity with school or college lecturers. We recommended 70 per cent posts to be in the scale of Rs. 510—940 and 30 per cent posts in the higher grade of Rs. 570—1080. The existing provision of advance increment is to continue.”

(6) The recommendations of the Second Pay Commission were made effective from 1st January, 1978. Under the aforesaid recommendations the classical and vernacular teachers were granted the pay scale of Rs. 570—1080 and selection grade of Rs. 620—1200 for 30% of the cadre strength. The benefit of the three advance increments for Hindi, Punjabi, Art and Crafts Teachers and five advance increments for Shastri were again continued. The Punjab Government constituted the Third Pay Commission and its recommendations were also accepted. Under the revised pay scale recommended by the Third Pay Commission the Hindi, Punjabi, Art and Crafts teachers were placed in the pay scale of Rs. 1500—2640 and such of the vernacular teachers, who were Shastris were placed in the higher pay scale of Rs. 1640—2925. The State of Punjab after acceptance of the recommendations of the Third Pay Commission issued order, dated 17th February, 1989 for revising the pay scales of the

teachers working in the Punjab Education Department which was effective from 1st January, 1986 and the following pay scales were notified in respect of classical and vernacular teachers :—

Sr. No.	Category	Present Scale	Revised Scale
1	C&V teachers i.e. Punjabi/Hindi/Urdu/ Sanskrit teachers	Rs. 570—1080 (with 3 advance increments to Punjabi/Hindi/Urdu Teachers and 5 Advance increments to Sanskrit teachers)	Rs. 1640—2925 Sr. Scale after 8 years service Rs. 1800—3200 Sr. Scale after 18 years service Rs. 2000—3500.
2	Art & Craft SV teachers, PTI, MTI Agriculture teachers	Rs. 570—1080 (with 3 advance increments to A&C teachers).	Rs. 1410—2460 Sr. Scale after 8 years service Rs. 1500—2640 Sr. Scale after 18 years service 1640—2925.

(7) Even though, the Third Pay Commission recommended pay scale of Rs. 1500—2640 for Art & Craft Teacher, PTI, MTI Teachers but the State Government reduced it and notified the pay scale at Rs. 1410—2460 at the commencement of the initial pay scale and after 8 years they were to be placed in the pay scale of Rs. 1500—2640 and again after 8 years of service in the pay scale of Rs. 1640—2925, whereas the classical and vernacular teachers in Punjabi, Hindi, Urdu and Sanskrit were initially placed in the pay scale of Rs. 1640—2925, after 8 years of service in the pay scale of Rs. 1800—3200 and after 18 years of service in the pay scale of Rs. 2000—3500. The petitioners who belong to categories like Art & Craft, PTI, MTI, Drawing Teachers etc. were placed in the lower pay scales than recommended by the Third Pay Commission.

(8) Being aggrieved of the aforesaid notification, dated 17th February, 1989 the petitioners have filed the present petitions seeking the same pay scale as were being enjoyed by Hindi, Punjabi, Urdu and Sanskrit Teachers.

(9) The arguments is two fold. One that the State after having accepted the recommendations of the Pay Commission is not entitled to temper with it and reduce the pay scale in an arbitrary manner. Two that this category of employees were all along at par with the other categories of employees till the recommendations of the Third Pay Commission and they were having common seniority, then being members of the same cluster/category cannot be discriminated in the matter of grant of pay scales.

(10) The State in its disclaimer has resisted the claim of the petitioners primarily on the ground that the petitioners are performing different kinds of duties than those have been placed in the higher pay scales. It is contended by Mr. Sharma appearing on behalf of the State that the doctrine of equal pay for equal work is not attracted in the present case as the nature of duties are different and they belong to different class as such.

(11) I have heard learned counsel for the parties at length and considered the factual background in depth. The sanctity of the recommendation of the Pay Commission and its implementation has been considered by a catine of judgements from this Court as also from the Hon'ble Supreme Court. A few are as under :—

1. **A. R. Lamba, Ex-Assistant Director *versus* Khadi and Village Industries Commission and others (1).**
2. **Pritam Das and others *versus* State of Punjab and another (2).**
3. **Employees of Tannery and Footwear Corporation of India Ltd. and another *versus* Union of India and others, (3).**
4. **Raj Pal Verma and others *versus* Punjab Agriculture University, Ludhiana and others (4).**

(1) 2004 (3) RSJ 640.

(2) 2001 (3) RSJ 357

(3) AIR 1991 S.C. 1367

(4) 2001 (4) RSJ 515

(12) To sum up the ratio of the aforesaid judgements, suffice it to say that the settled legal position that emerges is that once the State accepts the recommendations of the Pay Commission, it has no discretion to implement it differently for one set of employees than the other set of employees. Particularly it cannot apply different parameters or yardsticks to the same set of employees, who are otherwise in the same cadre/cluster that too without the issue being examined by the expert body. The Pay Commission is admittedly an expert body and its recommendations should not and cannot be brushed aside lightly in an arbitrary manner. The plea raised by the respondent-State that they are performing different duties is of no consequence. The petitioners are not invoking the doctrine of equal pay for equal work rather their contention is that all along they have been treated as members of the one category of service and were placed in the same pay scale and the Third Pay Commission recommended the same pay scale for the petitioners and other categories but were sought to be segregated by the Government in gross contravention of the recommendations of the Pay Commission.

(13) In view of the totality of the circumstances and the factual and legal position noticed herein above, I am of the considered view that the impugned notification, dated 17th February, 1989 is not sustainable in law and is liable to be quashed to the extent it has provided different pay scales for the petitioners, who are Art and Craft, PTI, MTI, Drawing Masters and Agriculture Teachers. They will be entitled to the same pay scale i.e. Rs. 1640—2925 as has been granted to the Hindi, Punjabi, Urdu teachers.

(14) A copy of this order be placed on each connected file.

R.N.R.