

Before M. R. Agnihotri, J.

KULVINDER SINGH AND OTHERS,—Petitioners.

versus

THE PUNJAB STATE ELECTRICITY BOARD,

PATIALA,—Respondent.

Civil Writ Petition No. 3156 of 1987.

23rd May, 1990.

*Constitution of India, 1950—Arts. 39, 226 & 227—Revision of pay-scale of employees in petitioners scale—Nature of duty and prescribed qualifications different for two posts—Principle of equal pay for equal work—Violation of—Such action—Whether discriminatory.*

*Held*, that no ground has been made out by the petitioners for revision of their pay scale so as to equate the same with that of Rs. 700—1200. The mere fact that the petitioners are Labour and Welfare Inspectors and at times are required to discharge certain legal duties also while appearing before the Labour Court/Industrial Tribunal, etc. and for which purpose they have to be conversant with the provisions of Labour Legislation, like the Industrial Disputes Act, Factories Act, Workmen Compensation Act, etc. does not entitle them to claim higher pay scale which the employees working on the posts requiring purely legal duties are getting. A very limited scope is left with the Courts to interfere where a case of discrimination has been made out by the petitioner and where the employer has denied to the petitioner either equality of opportunity in the matter of employment or has denied equal pay for equal work. Both these ingredients are missing in the present case. (Para 5)

*Civil Writ Petition Under Articles 226/227 of the Constitution of India praying that this Hon'ble Court may be pleased to :—*

- (i) *Send for the record of the case and after a perusal of the same;*
- (ii) *issue an appropriate writ, direction or order especially in the nature of Mandamus directing the respondent to remove the anomaly in the pay scale of the petitioners and to grant to the petitioner (L.W.I.) the pay scale of Rs. 700—1200 with effect from 1st January, 1978 in view*

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*of the fact that the pay scale of Rs. 700—1200 has already been granted to all other categories of posts who were earlier i.e. before 1st January, 1978 were getting either the same or lessor scale of pay which were earlier granted to the Labour Welfare Inspectors.*

- (iii) the respondent be further directed to give all other consequential reliefs to the petitioners and as fixation of their pay in the grade of Rs. 700—1200 with effect from 1st January, 1978 and the arrears etc. for which the petitioners are legally entitled;*
- (iv) this court may also issue any other suitable writ, direction or order which it may deem fit in the circumstances of this case;*
- (v) exempt advance notices to the respondents;*
- (vi) exempt filing of certified copies of annexures;*
- (vii) the costs of this petition may also be awarded to the petitioners.*

Jasdeep Singh Wasu, Advocate, for the Petitioner.

M. S. Kang, Advocate, for the Respondent.

### ORDER

*M. R. Agnihotri, J.*

(1) The Petitioners, who are Labour and Welfare Inspectors, employed in the Punjab State Electricity Board, Patiala, have invoked the writ jurisdiction of this Court for the removal of anomalies in their pay scale by granting to them the scale of pay of Rs. 700—1200 with effect from 1st January, 1978, on which date the pay scales of employees belonging to certain other categories who were earlier at par with the petitioners, were revised to Rs. 700—1200 without revising the pay scale of the petitioners.

(2) Before 1st January, 1978, the pay scale of the petitioners who are holding the posts of Labour and Welfare Inspectors with the Punjab State Electricity Board, Patiala, (hereinafter referred to as 'the Board'), was Rs. 210—480. The qualifications for this

post, as prescribed by the Board, were as under :—

“Graduate with Diploma in Labour Laws or LL.B with Labour Laws as one of the subjects.”

There were a number of other posts which were grouped together and classified along with the posts of Labour and Welfare Inspectors at the time of revision of pay scales with effect from 1st January, 1978. A number of such posts as Sports Assistant, Assistant Librarian, Sub Fire Officer, Head Office Assistant, Artist-cum-Photographer, Instrument Technician, Research Assistant, Divisional Head Draftsman, etc. carried higher pay scale than that of the Labour and Welfare Inspector, that is, the pay scale of Rs. 210—480. However, the pay scales of all these posts were revised to 570—1080. The grievance of the petitioners is that as the workload and type of their work is comparable to the Personnel Officer, Bhakra Beas Management Board Law Officer, H.S.E.B.; Assistant Personnel Officer, B.B.M.B.; Assistant Director Attorney of Director Prosecution Department, Punjab (both Grade I and Grade II); Legal Advisor of Pepsu Roadways Transport Corporation; and Law Officer, Labour Department, Punjab, the pay scale of the Petitioners' post should also have been revised to at least Rs. 700—1,200, if not higher. The nature of duties required to be performed by the petitioners is almost similar to the duties of Law Officers who have to draft pleadings and conduct cases before the Labour Court, Industrial Tribunal, etc. Therefore, applying the Principle of “equal pay for equal work”, as enshrined in Article 39 of the Constitution, the petitioners were entitled to draw the pay scale of Rs. 700—1,200.

(3) In reply to the writ petition, the respondent-Board has pleaded that no case had been made out by the petitioners for the revision of their pay scale at Rs. 700—1,200. According to the Board, the nature of duties required to be performed by the petitioners are different from the duties of Law Officers of other Departments. In fact, Labour and Welfare Inspectors need not necessarily be Law Graduates which is the basic qualification of a Law Officer. A Graduate with Diploma in Labour Laws is also eligible for the post of Labour and Welfare Inspector, but he is not eligible for the post of Law Officer. Strong reliance has also been placed by the Board on the Division Bench judgment of this Court in C.W.P. No. 2896 of 1982 filed by Baldev Singh and others of the Board, in which S. S. Sandhawalia, C.J. and S. S. Sodhi, J., while

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dismissing the writ Petition on 14th September, 1982, observed as under :—

“Different pay for different posts provides no occasion for invoking the writ jurisdiction of this Court even if at one time they may have happened to be in the same scale of pay. The challenge here is to the different scales of pay for Under Secretaries and Accounts Officers. Both these posts belong to different administrations, namely, the Secretariat Administration and the Accounts Administration. The duties, responsibilities, qualifications and experience for these two posts are clearly different and distinct from each other. In the matter of pay scales, the respondent-Punjab State Electricity Board has broadly followed the pattern accepted by the Punjab Government, particularly in respect to corresponding categories of posts. There is thus no warrant for granting to the petitioners the relief claimed. This writ petition is accordingly dismissed *in limine*.”

It has further been stated by the Board that it is strictly following the State of Punjab in the matter of grant of pay scales to its employees and there is no valid ground with the respondent-Board to deviate from the policy of Government of Punjab for granting the pay scale of Rs. 700—1,200 to the category of Labour and Welfare Inspectors, as the similar corresponding category (Labour Inspector Gr.-I) has been sanctioned revised scale of Rs. 570—1080 by the State Government. Further, the pay scale of Rs. 700—1200 has been sanctioned to the categories of establishment who were at par with the pay scale of Line Superintendent/Section Officer (Civil) of the Government.

(4) Reliance has also been placed by the learned counsel for the respondent-Board, Mr. M. S. Kang, on the Single Bench decision of this Court in *(A. L. Mahajan and others v. The Punjab State Electricity Board, (1)*, in which A. L. Bahri, J., while dismissing the writ petition of Shift Chemists/Laboratory Assistants on 22nd February, 1989, has held that,—“on the ground that pay scales of other posts were revised, the petitioners could not ask for *wandamus* directing the respondent-Punjab State Electricity Board to revise the pay scales of Laboratory Assistants”.

(1) CWP. No. 387 of 87, decided on 22nd February, 1989. .