

Before Tejinder Singh Dhindsa, J.

SARITA SHARMA—Petitioner

versus

STATE OF PUNJAB & ANOTHER—Respondents

CWP 20406 of 2013

September 16, 2013

Constitution of India, 1950 - Art. 14,16,39(d) & 226 - Service Law - Pay revision - Pay parity - Petitioner serving as a House Keeper at Punjab Raj Bhawan - Seeking parity and identical pay scale with posts of Senior Assistant/Senior Scale Stenographer - Pleadings on record completely bereft of details of nature of duties and degree and responsibility assigned to the post of Senior Assistant/Senior Scale Stenographer with whom parity sought - No document wherefrom the Court could infer that the competent authority has taken a conscious decision to equate the post of House Keeper with the post of Senior Assistant/Senior Scale Stenographer - In absence of such decision, the Court to refrain itself from entering into the thicket of grant of revised pay scale in respect of the holder of one post and take upon itself the functions that would best be left to expert bodies like the Pay Commission - Writ Petition dismissed.

Held, that in the present case the pleadings on record are completely bereft as regards the nature of duties and degree and responsibilities assigned to the post of Senior Assistant and Senior Scale Stenographer with whom pay parity is sought by the petitioner while working on the post of House Keeper. That apart, counsel has not adverted to any document, wherefrom this Court can infer that the competent authority has taken a conscious decision to equate the post of House Keeper with that of Senior Assistant/Senior Scale Stenographer. In the absence of any such decision, this Court would restrain itself from entering into the thicket of grant of revised pay scales in respect of the holder of one post and take upon itself the functions that would be best left to the expert bodies in the nature of Pay Commission etc.

(Para 9)

Yash Pal Malik, Advocate, for the petitioner.

TEJINDER SINGH DHINDSA, J.

(1) The petitioner, who is serving as House Keeper, Punjab Raj Bhawan, has filed the instant writ petition impugning the order dated 25.6.2013 (Annexure P-6) passed by the Principal Secretary to the Governor, Punjab, whereby her claim seeking pay parity with the posts of Senior Assistant/ Senior Scale Stenographer, has been rejected.

(2) It has been pleaded that the petitioner was initially appointed on the post of House Keeper in the Punjab Raj Bhawan on 23.1.1989 in the pre-revised scale of Rs.600-1120/-.

(3) Learned counsel for the petitioner would refer to a tabulation furnished at page 15 of the writ petition, whereby the post of Senior Assistant as also Assistant Supervisor, Hospitality Department, State of Punjab had been granted equivalent scale of Rs.600-1120 in the year 1989. Counsel would submit that according to the recommendations of the Fourth Pay Commission, the scale granted to the post of House Keeper has been revised to Rs.1500-2640, whereas the posts in reference i.e. Senior Assistant and Assistant Supervisor, Hospitality Department were granted the higher scale of Rs.1800-3200. It is further pleaded that such disparity continued in further subsequent revisions upon implementation of the recommendations of the Fifth and Sixth Pay Commissions, whereby the post held by the petitioner was granted the scale of Rs.5000-8100 and further revised to Rs.10,000-34,800/- + 3200 Grade Pay, whereas the posts in reference were granted the higher pay scale of Rs.5800-9200 and further revised to Rs.10,300-34,800 + 3800 Grade Pay.

(4) Counsel would strenuously argue that the pay parity between the posts of House Keeper and the reference posts having been established in the year 1989 on account of grant of identical pay scale i.e. Rs.600-1120/-, it was not open for the respondent-authorities to have broken such pay parity at the stage of subsequent pay revisions. Towards such assertion, reliance has been placed upon a Division Bench judgement of this Court in case of *Haryana State Biologists' Association versus State of Haryana (I)*, as also another Division Bench judgement dated 27.10.2010 rendered in L.P.A No.1000 of 2010 titled as *State of Punjab and another Vs. Kewal Krishan Garg and others* (Annexure P-8).

(5) Furthermore, counsel has argued that even holders of posts in the nature of Conservator Assistant, Cultural Affairs (B Class Office) and Assistant-cum-Accountant, who were enjoying even a lower scale of Rs.570-1080 as compared to the scale of Rs.600-1120, which was granted to the petitioner at the time of her initial appointment, have subsequently been revised to a higher stage. Counsel argues that the petitioner is a victim of a clear case of discrimination and arbitrariness. In the backdrop of such submissions raised by learned counsel, a prayer has been made for quashing of the impugned order dated 25.6.2013 (Annexure P-6) and for issuance of directions to the respondent-authorities to grant to the petitioner the identical pay scale as made admissible to the Senior Assistant/Senior Scale Stenographer.

(6) Having heard learned counsel for the petitioner at length and having perused the pleadings on record, I am of the considered view that the present writ petition deserves dismissal.

(7) It is, by now well settled that the grant of a higher scale of pay would be in the nature of a policy decision, which would lie strictly within the domain of the Executive. Grant of a particular pay scale/revision thereof would involve an exercise of evaluation of duties and responsibilities of different posts as also taking into account other relevant parameters in the nature of educational qualifications, method of recruitment, the degree of responsibilities to be discharged, experience etc. In such matters, judicial interference would be very limited and interference would be called for only, if, the decision of the State Govt. to grant any particular pay scale is patently irrational and unjust.

(8) The Hon'ble Supreme Court in case of *State of West Bengal and another versus West Bengal Minimum Wages Inspectors Association and others (2)*, examined the question as to whether the employees holding the post of Inspector, Agriculture Minimum Wages, would be entitled to pay parity with the holders of posts of Inspectors (Cooperative Societies, Extension Officers, Panchayats) etc. Having examined the matter at length, it was held that parity cannot be claimed merely on the basis that earlier in point of time the subject posts and the reference category posts were carrying the same scale of pay. It was categorically

held that the mere fact that at an earlier point of time two posts were carrying the same pay scale, does not mean that after the implementation of the revision in pay scales they should necessarily be granted the same revised scale of pay. The observations of the Hon'ble Supreme Court were in the following terms:-

"17. It is now well-settled that parity cannot be claimed merely on the basis that earlier the subject post and the reference category posts were carrying the same scale of pay. In fact, one of the functions of the Pay Commission is to identify the posts which deserve a higher scale of pay than what was earlier being enjoyed with reference to their duties and responsibilities, and extend such higher scale to those categories of posts. The Pay Commission has two functions; to revise the existing pay scale, by recommending revised pay scales corresponding to the pre-revised pay scales and, secondly, make recommendations for upgrading or downgrading posts resulting in higher pay scales or lower pay scales, depending upon the nature of duties and functions attached to those posts. Therefore, the mere fact that at an earlier point of time, two posts were carrying the same pay scale does not mean that after the implementation of revision in pay scales, they should necessarily have the same revised pay scale. As noticed above, one post which is considered as having a lesser pay scale may be assigned a higher pay scale and another post which is considered to have a proper pay scale may merely be assigned the corresponding revised pay scale but not any higher pay scale. Therefore, the benefit of higher pay scale can only be claimed by establishing that holders of the subject post and holders of reference category posts, discharge duties and functions identical with, or similar to, each other and that the continuation of disparity is irrational and unjust. The respondents have neither pleaded nor proved that the holders of post of Inspectors (Cooperative Societies), Extension Officers (Panchayat) and KGO-JLRO (Revenue Officers) were discharging duties and functions similar to the duties and functions of Inspector-AMW. Hence, the prayers in the original writ petition

could not have been granted. In fact, that is why the learned single Judge rightly held that whether the posts were equivalent and whether there could be parity in pay are all matters that have to be considered by expert bodies and the remedy of the respondent was to give a representation to the concerned authority and the court cannot grant any specific scale of pay to them."

(9) In the present case the pleadings on record are completely bereft as regards the nature of duties and degree and responsibilities assigned to the post of Senior Assistant and Senior Scale Stenographer with whom pay parity is sought by the petitioner while working on the post of House Keeper. That apart, counsel has not adverted to any document, wherefrom this Court can infer that the competent authority has taken a conscious decision to equate the post of House Keeper with that of Senior Assistant/Senior Scale Stenographer. In the absence of any such decision, this Court would restrain itself from entering into the thicket of grant of revised pay scales in respect of the holder of one post and take upon itself the functions that would be best left to the expert bodies in the nature of Pay Commission etc.

(10) Even the plea of discrimination raised by the petitioner by referring to certain posts of Conservator Assistant, Assistant-cum-Accountant etc. who were, at one point of time, being granted a scale even inferior to the post of House Keeper, would be totally misplaced. No comparison as regards nature of job and responsibilities in respect of such post on the one side and the post of House Keeper on the other, has been made out. Even such plea and submission stands adjudicated upon by the Hon'ble Apex Court in the case of **State of West Bengal and another Vs. West Bengal Minimum Wages Inspectors' Association and others** (supra), wherein it was observed that it is the function of the Pay Commission to identify the post which deserves a higher scale of pay than what was earlier being enjoyed with regard to their duties and responsibilities and to extend such higher scale to those posts. Merely on account of the fact that a certain post, at one point of time, had been granted a lower pay scale and upon revision has been granted a higher scale, cannot be made the basis for acceptance of the prayer as raised by the petitioner in the instant writ petition.

(11) In the case of **Haryana Biologists Association** (supra), upon which reliance was placed by learned counsel for the petitioner, it had been noticed by the Division Bench that the State in reference to the employees concerned therein had taken a conscious decision of providing parity in the pay scales of employees falling in two different cadres. Accordingly, it had been held that once such parity had been accorded in pursuance to a conscious decision at the hands of the competent authority, there would be no occasion to deprive one class or category of employees of the revised pay scales thereby disturbing such parity. The judgement in **Haryana Biologists Association** (supra), accordingly, would have no applicability to the facts of the present case. Likewise, even the judgement passed by this Court in L.P.A. No.1000 of 2010 at Annexure P-8 would be distinguishable on facts. In that case the respondents/writ petitioners were holding the post of Research Assistants (Grade-B) in the Irrigation Department of the State of Punjab and were claiming parity of pay with that of Junior Engineers working on the Engineering Wing. Such pay parity was made admissible on the strength of the recommendations of the expert body i.e. the First, Second and Third Pay Commissions as also on account of the decision of the State Govt., wherein parity of pay scales in Class-I and Class-II posts in the Research & Engineering Wing had been granted but such parity was not being made admissible to holders of Class-III posts. In the present case even the recommendations made by the expert body i.e. the various Pay Commissions are not commensurate with the prayer raised in the present writ petition seeking pay parity with the posts of Senior Assistant/Senior Scale Stenographer.

(12) For the reasons recorded above, I find no merit in the present writ petition and the same is, accordingly, dismissed.

(13) Petition dismissed.