



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.1035 of 2019 a/w
CWP No.501 of 2022
Reserved on: 06.08.2025
Date of Decision: 21.08.2025

1.

CWPOA No.1035 of 2019

Himachal Pradesh Polytechnic Teachers Welfare Association & another

...Petitioners
- Versus
- State of H.P. & others

...Respondents
2.

CWP No.501 of 2022

Sudhir Dhiman & others

...Petitioners
- Versus
- State of H.P. & others

...Respondents

Coram
Hon'ble Mr. Justice Satyen Vaidya, Judge
Whether approved for reporting? Yes

- CWPOA No.1035 of 2019

For the petitioners:

Mr. Dilip Sharma, Senior Advocate with Mr. Manish Sharma, Advocate.

For the respondents:

Ms. Seema Sharma, Deputy Advocate General.
- CWP No.501 of 2022

For the petitioners:

Mr. Bhuvnesh Sharma, Senior Advocate, with Ms.Vishali Lakhanpal, Advocate.

For the respondents:

Ms. Seema Sharma, Deputy Advocate General.

Satyen Vaidya, Judge

Both these petitions have been heard and are being decided together as common questions of law and facts are involved.

2. For convenience and clarity, the facts of CWPOA No.1035 of 2019 are being taken into consideration.

3. The instant petition has been filed for the following reliefs:

“(i) That the decision as reflected in Annexure P-15 dated 20.8.2013 dis-allowing the four tier pay scales to the teaching faculty of Government Polytechnics may kindly be quashed and set aside;

(ii) That the respondents may be directed to allow to the members of petitioner Association the pay scales as per AICTE recommendations, as recommended by 5th Punjab Pay Commission, or at least four tier pay scales as allowed to their counterparts in State of Punjab, which are lower than as recommended by 5th Punjab Pay Commission, from due date, with all consequential benefits.”

4. Petitioner No.1 is an Association formed by teaching faculty members of Government Polytechnics in the State of Himachal Pradesh. The Lecturers/Senior Lecturers/Head of Department/Principals in the Government Polytechnics in the

State of Himachal Pradesh are the members of petitioner No.1- Association.

5. The petitioners herein are seeking to espouse the cause of The Lecturers/Senior Lecturers/Head of Department/Principals in the Government Polytechnics in the State of Himachal Pradesh, by seeking reliefs, as noticed above.

6. The Polytechnic Lecturers in the State of Himachal Pradesh were placed in the pay scale of Rs.7880-13500 on revision of pay scales w.e.f. 01.01.1996.

7. The State of Himachal Pradesh notified the H.P. Civil Services (Revised Pay) Rules, 2009 effective from 01.01.2006 on Punjab Pay pattern. As per "Fitment Table-19", for pre-revised pay scale of Rs.7880-13500, the pay band of Rs.15600-39100 plus Rs.5400 Grade Pay was allowed.

8. The case, as set up by the petitioners is that the 5th Punjab Pay Commission *vide* para 5.51 had made specific recommendation with respect to the teaching faculty in the Department of Technical Education, on the basis of recommendations made by All India Council of Technical Education (AICTE). The State of Punjab implemented the aforesaid recommendations qua teaching faculty of Engineering Colleges in Technical Education & Industrial Training Department of State of Punjab. Following the Punjab Pay pattern, the State of

Himachal Pradesh also allowed to the teaching faculty in Engineering Colleges pay scales as per AICTE recommendations.

9. The teaching faculty of Government Polytechnics was not allowed the benefit of pay scales as recommended by AICTE and to that extent the recommendation of 5th Punjab Pay Commission was not followed by the State of Punjab. Instead, the State of Punjab allowed the benefits of Dynamic Assured Career Progression Scheme (DACPS) to the category of Lecturers in Department of Technical Education by adding such category to the Schedule attached to the Punjab Civil Services (Dynamic Assured Career Progression) Rules, 2011

10. It is also the case of the petitioners that though the four-tier pay scales under DACPS was carrying lesser financial liability as compared to the pay scales recommended by AICTE, yet even this benefit has not been made available to the petitioners.

11. It is also asserted that in the State of Himachal Pradesh, Assured Career Progression Scheme was introduced by allowing four-tier pay scales to 8 specific services *vide* notification dated 01.01.1998. However, as a result of revision of pay scales, *vide* letter dated 31.08.2009, it was decided that the aforesaid four-tier scales would not be admissible after 26.08.2009 till

further orders. After the State of Punjab followed four-tier pay scales by way of DACPS to 12 categories, the State of Himachal Pradesh allowed such scales to 8 categories only *vide* letter dated 09.08.2012

12. The grievance of the petitioner is that not only have they been divested of the benefit of pay scales recommended by AICTE, they have not even been allowed the benefit of DACPS. The petitioners have submitted that as against 9 services granted four-tier scales in Punjab comparable to the corresponding services in H.P, four-tier scales have been allowed to 8 identifiable services in H.P. The petitioners have quoted the example whereby following the Punjab pattern, H.P. Forest Service has been allowed four-tier pay scales w.e.f. 01.09.2013 on the analogy of their counterparts in Punjab.

13. The petitioners have further contended that though, the matter regarding allowing four-tier pay scales to the Lecturers in Polytechnic along with the other services/posts i.e. State Forest Service, Agriculture Service and Horticulture Service was submitted for consideration of Council of Ministers *vide* memorandum dated 12.08.2013, but the Cabinet allowed the benefit of four-tier pay scales in favour of State Forest Service and same was disallowed for other categories, including the Lecturers in Polytechnics.

14. The petitioners have further alleged that the State of Himachal Pradesh has subjected the teaching faculty of Government Polytechnics in the State to hostile discrimination in the matter of revision of pay scales. Neither the pay scales as recommended by Punjab Pay Commission have been allowed to lecturers in Government Polytechnics nor have they been allowed lesser benefit of DACPS.

15. It is contended that the State of Himachal Pradesh has been following Punjab pay pattern till date. The respondent-State, as per the petitioners, cannot be allowed to deny to the isolated category of teaching faculty of Government Polytechnics, either the recommendations of Punjab Pay Commission or the pay scales allowed to their counterparts by Punjab Government in deviation and dilution to the recommendations of Punjab Pay Commission.

16. Further contention of the petitioners is that the respondents while rejecting the case of the petitioners for grant of DACPS have assumed that no such recommendation was made by Punjab Pay Commission, which clearly was erroneous. The Punjab Pay Commission had recommended pay scales as recommended by AICTE and on such recommendation not only the State of Punjab, but the State of Himachal Pradesh also allowed the AICTE recommended scales to the teaching faculty of

Engineering Colleges. In the case of teaching faculty of Government Polytechnics, the Punjab Government did not follow the recommendations of Punjab Pay Commission. In their case, the Punjab Government allowed them DACPS in deviation and dilution to the AICTE recommendations. The benefits under the four-tier pay scales are less lucrative than admissible under AICTE.

17. As per petitioners, while putting up case for consideration of Council of Ministers *vide* memorandum dated 12.08.2013, the case of the petitioners' Association was treated at par with agriculture services and horticulture services of the State. Such act of the respondents has also been challenged on the ground that the case of the petitioners could not be compared with agriculture services and horticulture services of the State because in the case of the petitioners, the Punjab Pay Commission had already recommended pay scales as per AICTE recommendations for reasons of accreditation with the AICTE and in the interest of national uniformity.

18. The aspect of prospective financial implications, by allowing the category of the petitioners along with horticulture and agriculture services in the State the benefit of four-tier pay scales, was also placed before the Council of Ministers for its consideration. According to the petitioners, such burden in the

case of the categories of Lecturers in Government Polytechnics would not be more than Rs70.00 lacs per annum.

19. Similarly, the petitioners have also challenged another anomaly pointed out in the memorandum placed before the Council of Ministers, according to which the grant of four-tier pay scale to the category of Lecturers in Polytechnics after completion of 9 years would place them above the scale of Deputy Commissioners resulting into hierarchal imbalance.

20. The petition is contested by the respondents. Reply has been filed by respondent No.2 stating *inter alia* that though the State of Himachal Pradesh takes into consideration Punjab pattern of pay scales based on the recommendations of the Punjab Pay Commission, yet while examining the pay scale in the State, the staffing pattern, Recruitment and Promotion Rules, method of recruitment, prescribed educational qualifications, geographical and traditional/territorial conditions, natural and financial resources which are State specific are taken into consideration. The State Government of Himachal Pradesh implements these pay scales in respect of its employees with the approval of competent authority after detailed examination at various levels by framing statutory rules under Article 309 of the Constitution of India. The State Government decides its pay scales as a service condition prescribed in the Recruitment and

Promotion Rules notified under Article 309 of the Constitution of India. Similarly, the pay scales are allowed/revised from time to time under the H.P. Civil Services Pay Rules framed/notified by the State Government.

21. Thus, the stand of the respondents is that though, it considers Punjab Pay pattern recommended by Punjab Pay Commission, but it is not bound to follow the same in entirety. The final call is taken by the State Government as to which of the recommendation of the Punjab Pay Commission, as followed by the State of Punjab, has to be followed in the State of Himachal Pradesh and to what extent.

22. With respect to controversy in hand, it has been submitted that the Punjab Government had allowed re-revision of pay structure/grade pays in respect of various categories in different departments from different dates i.e. 1.10.2011, 01.11.2011 and 01.12.2011. These orders were based on the recommendations of cabinet sub-committee. The Punjab Government had re-revised the pay scale of Punjab Forest Services *vide* letter dated 05.10.2011 w.e.f. 01.10.2011 on the basis of recommendation of the 5th Punjab Pay Commission without giving any retrospective effect and the application of four-tier pay scale to the Lecturers of Polytechnics in Punjab had been

allowed *vide* notification dated 21.11.2011 again on the recommendation of cabinet sub-committee.

23. It is further the case of respondents that normally the general revision of pay scales takes place after a span of 10 years. In order to allow re-revision during the intervening period, the Government, in exercise of powers conferred by proviso to Article 309 of the Constitution of India, has framed the Himachal Pradesh Civil Services (Category/Post-wise Revised Pay) Rules, 2012 *vide* notification dated 24.09.2012. The State Government of Himachal Pradesh had not granted the DACPS to any of the categories of its employees.

24. The respondents have admitted that the case of the Lecturers in Government Polytechnics was placed before the Council of Ministers with full facts for consideration in its meeting held on 21.08.2013 and the Council of Ministers had approved the grant of four-tier pay scale only to the Forest Services, keeping in view the recommendation of 5th Punjab Pay Commission, and not to the other who were granted the four-tier pay scale on the decision of the cabinet subcommittee in the State of Punjab.

25. I have heard learned counsel for the parties and have also perused the record carefully.

26. The question that arises for determination is whether the petitioners have any vested right of claiming a particular scale of pay only on the basis of grant of such pay scale to similarly situated employees in the State of Punjab by the Government of that State.

27. In **State of Himachal Pradesh vs. P.D Attri & others, (1999) 3 SCC 217**, Hon'ble Supreme Court has held as under:

"5. The case of the respondents is not based on any Constitutional or any other legal provisions when they claim parity with the posts similarly designated in the Punjab & Haryana High Court and their pay-scales from the same date. They do not allege any violation of any Constitutional provision or any other provision of law. They say it is so because of "accepted policy and common practice" which according to them are undisputed. We do not think we can import such vague principles while interpreting the provisions of law. India is a union of States. Each State has its own individualistic way of governance under the Constitution. One State is not bound to follow the rules and regulations applicable to the employees of the other State or if it had adopted the same rules and regulations, it is not bound to follow every change brought in the rules and regulations in the other State. The question then arises before us is if the State of Himachal Pradesh has to follow every change brought in the States of

Punjab & Haryana in regard to the rules and regulations applicable to the employees in the States of Punjab & Haryana. The answer has to be in negative. No argument is needed for that as anyone having basic knowledge of the Constitution would not argue otherwise. True, the State as per "policy and practice" had been adopting the same pay-scales for the employees of the High Court as sanctioned from time to time for the employees of the Punjab & Haryana High Court and it may even now follow to grant pay-scales but is certainly not bound to follow. No law commands it to do so.

6. *The State of Punjab was reorganized into States of Punjab, Haryana and Himachal Pradesh, to begin with, was a Union Territory and was given the status of full statehood in 1970. Since employees of the composite States of Punjab were taken in various Departments of the State of Himachal Pradesh in order to safeguard the seniority, pay-scales etc., the State of Himachal Pradesh followed the Punjab pattern of pay-scales. After attaining the status of full statehood, High Court of Himachal Pradesh formulated its own rules and regulations for its employees. It adopted the pattern of Punjab & Haryana High Court rules of their employees. When Punjab & Haryana High Court gave effect to certain portion of its Rules from 25.9.1985 by notification dated 23.1.1986 as a result of which redesignation of the posts of Senior Translators and Junior Translators were equated to the posts in Punjab Civil Secretariat, the Himachal Pradesh*

High Court similar effect was given to in its rules for its employees. When the Punjab & Haryana High Court gave effect to those rules from 23.1.1975, the State Government did not agree to the recommendations of the Chief Justice of the Himachal Pradesh High Court to follow the same suit. It is true that till now, Himachal Pradesh High Court has been following the rules applicable to the employees of the Punjab & Haryana High Court and it may go on following those rules as may be amended by the Punjab & Haryana High Court from time to time, but certainly it is not bound to so follow. No law commands the State Government to follow the rules applicable to the employees of the Punjab & Haryana High Court to the employees of the Himachal Pradesh High Court. That being the position, it is not necessary for us to examine different qualifications for appointment to the posts of Senior Translators and Junior Translators that may exist between Punjab & Haryana High Court and the Himachal Pradesh High Court and also as to the mode of their recruitment/place-ment in the service. Moreover, any change in the pay- scales following Punjab & Haryana High Court can set in motion chain reaction for other employees which may give rise to multiplicity of litigation among "arious categories of employees. Rules of each High Court have to be examined independently. There cannot be any such law that Himachal Pradesh High Court has to suo motu follow the same rules as applicable to the employees working in the Punjab & Haryana High Court."

28. In **Shiba Kumar Dutta and others vs. Union of India and others**, (1997) 3 SCC 545, the exposition has been made as under:

“3. The admitted position is that the petitioner, who are working as fitter (T & G), had sought to be fused in the category of, and to be on par with, Jig Borers. They sought equal pay on par with them. They contend that they were drawing higher pay-scales than the Fitter; instead of elevating their cadre and placing them in the higher pay- scales, they have been brought them down in the category as a Fitter after removing the two nomenclatures. Thereby, it is arbitrary on account of invidious discrimination. The Third Pay Commission had gone into that aspect of the matter and fixed the scales of pay. Thereafter, admittedly, Expert Classification Committee and Anomalies Removal Committee had also gone into the matter and made distinction between them. Subsequently, nomenclature of all of them were removed and fused into one category, namely, Fitter. Nomenclature and fitment is one of executive policy of the Government. Unless the action is arbitrary or there is invidious discrimination between persons similarly situated, doing same type of work, as is pointed out, it would be difficult for the Court to go into the question of equation of posts or fitment into a particular scale of pay. They must be left to be decided by the Expert Committees and evaluate the job criteria and scales of pay prescribed for

each category. Under those circumstances, the Tribunal is justified in refusing to go into the question.”

29. Later in ***P.U. Joshi and others vs. Accountant General, Ahmadabad and others***, (2003) 2 SCC 632, the following principles has been laid down:

“10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy and within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the Statutory Tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/substruction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute

different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing existing cadres/posts and creating new cadres/posts. There is no right in any employee of the State to claim that rules governing conditions of his service should be forever the same as the one when he entered service for all purposes and except for ensuring or safeguarding rights or benefits already earned, acquired or accrued at a particular point of time, a Government servant has no right to challenge the authority of the State to amend, alter and bring into force new rules relating to even an existing service."

30. In **Secretary, Mahatma Gandhi Mission and another vs. Bhartiya Kamgar Sena and others, (2017) 4 SCC 449**, Hon'ble Supreme Court has held as under:

"62. The fact that the Government of India accepted the recommendations of the Sixth Pay Commission (for that matter any pay commission) does not either oblige the States to follow the pattern of the revised pay structure adopted by the Government of India or create any right in favour of the employees of the State or other bodies falling within the legislative authority of the State. The Government of India has no authority either under the Constitution or under any law to compel the States or their instrumentalities to

adopt the pay structure applicable to the employees of the Government of India.”

31. In light of above noticed exposition of law, there is no hesitation to hold that no right has accrued in favour of the petitioners for claiming parity of scale with their counterparts in the State of Punjab. The mere fact that the State of Himachal Pradesh has been following pay pattern followed in the State of Punjab on the basis of recommendations made by the Punjab Pay Commission, does not mean that the State of Himachal Pradesh has bound itself to follow such pay pattern for all intents and purposes. As per the stand of the respondents, the State of Himachal Pradesh takes an independent decision on the issue as to what extent it has to follow the pay pattern adopted by Punjab on the recommendations of its Pay Commission and exercise of such power cannot be said to be beyond the competence of the State Government. That being so, the only scope left to examine the contentions of the petitioners is to test the decision-making process undertaken by the State of Himachal Pradesh at the touchstone of Articles 14 & 16 of the Constitution of India.

32. Indisputably, the matter regarding grant of four-tier pay scale to the Lecturers in Government Polytechnics in Himachal Pradesh was placed before the Council of Ministers. After deliberation, the Council of Ministers did not find favour in

granting the benefit of four-tier pay scale to the said category of employees. In the memorandum placed before Council of Ministers, it was mentioned that the grant of four-tier pay scale to the Lecturers in Polytechnics would entail financial burden and will also create hierarchal imbalance in future, as the category of Lecturers in Polytechnics, if allowed the benefit of four-tier pay scale, they would get higher pay than the Deputy Commissioners after nine years. Obviously, the Council of Ministers having considered the various aspects of the matter did not find it appropriate and legitimate to allow the benefit of four-tier pay scale to the Lecturers in Polytechnics. This Court does not find any flaw in the decision-making process. It is more than settled that the grant of pay scales or parity of pay scales is the job of experts, who after considering various relevant aspects, take the decision. This Court cannot sit as an expert to impose its own opinion.

33. The petitioners have laid stress by urging that as per the stand of the State of Himachal Pradesh it would have allowed the pay scale to the petitioners as per the recommendations of 5th Punjab Pay Commission had the same been followed by Punjab Government, but since it has not been done the petitioners would not be allowed the benefit of DACPS allowed to their counterparts in Punjab on the basis of decision taken by the Cabinet Sub-

committee of said State. It has further been urged that the financial implication by adopting the first situation would have been much higher than the latter. The argument, as raised by the petitioners, has no basis, being hypothetical. As noticed above, State Government is not even bound to follow the pay pattern of Punjab even if that State follows the recommendations of its Pay Commission.

34. Another fact that the State Government had allowed the benefit of four-tier pay scale to the State Forest Services also cannot be a ground for the petitioners to claim a right of parity. The decision of the State Government cannot be said to be bad in law merely because it has decided to grant the benefit to one category of its employees as against the others. This Court sees no arbitrariness or irrationality in the decision of the State Government. It also cannot be said to be discriminatory for the petitioners cannot seek parity with the State Forest Services which operate in different domain.

35. The petitioners have placed reliance on the judgment passed by Hon'ble Supreme Court in ***Haryana State Minor Irrigation Tubewells Corporation and others vs. G.S. Uppal and others***, (2008)7 SCC 375, in which it has been held as under:

“21. There is no dispute nor can there be any to the principle as settled in the above-cited decisions of this Court that fixation of pay and determination of parity in duties is the function of the Executive and the scope of judicial review of administrative decision in this regard is very limited. However, it is also equally well-settled that the courts should interfere with the administrative decisions pertaining to pay fixation and pay parity when they find such a decision to be unreasonable, unjust and prejudicial to a section of employees and taken in ignorance of material and relevant factors. [see *K.T. Veerappa & Ors. v. State of Karnataka & Ors.*(2006) 9 SCC 406]

22 to 28

xx xx xx

29. The learned Single Judge of the High Court as also the learned Judges of the Division Bench have considered the controversy in detail in their judgments holding the respondents entitled for the revision of pay scales at par with their counter-parts working in the State of Haryana.

30.

xx xx xx

31 A careful examination shows that the issue was not really about grant of pay scales to Corporation Engineers on par with PWD Engineers. When the pay revision took place, the revised pay scales that were given to the Engineers of the State Government were also given to the engineers of the Corporation with

effect from 1.1.1986 thereby maintaining the parity. What was not extended to the Corporation employees, which is the subject matter of the grievance, is the further revision by way of 'removal of anomaly in pay scales' given to AEE/AE/SDO/SDE of the State Government with effect from 1.5.1989 vide circular dated 2.6.1989 of the Finance Commissioner. The real question would be whether what is given by way of anomaly removal in the case of Engineers of State Government, should automatically be extended to the corresponding categories of engineers of the Corporation.

32. When, after a pay revision, an anomaly is found in the pay scale given to a class of Government servants and such anomaly is rectified, it is not a new pay revision but a correction of the original pay revision, or an amendment to the pay scale that has already been granted. Therefore, where the pay revision extended to the government servants has already been extended to the employees of the Corporation also, it follows that any correction of anomaly in the revised pay scale given to the government servants should also be made in the case of those who were earlier given parity by extending the pay scale which is the subject matter of the correction. It should be borne in mind that the question whether Corporation engineers were on par with PWD Engineers and should be given parity in pay scales was already decided when the pay scale revision granted to Government (PWD) engineers was extended to

the corporation Engineers also with effect from 1.1.1986. That question did not again arise when the anomaly in the pay revision was rectified with reference to the Government engineers. When the anomaly in the pay scale of Government engineers was rectified, the rectification should apply to Corporation engineers also to maintain the parity.

33. *The plea of the appellants that the Corporation is running under losses and it cannot meet the financial burden on account of revision of scales of pay has been rejected by the High Court and, in our view, rightly so. Whatever may be the factual position, there appears to be no basis for the action of the appellants in denying the claim of revision of pay scales to the respondents. If the Government feels that the Corporation is running into losses, measures of economy, avoidance of frequent writing off of dues, reduction of posts or repatriating deputationists may provide the possible solution to the problem. Be that as it may, such a contention may not be available to the appellants in the light of the principle enunciated by this Court in M.M.R. Khan v. Union of India [1990 Supp. SCC 191] and Indian Overseas Bank v. I.O.B. Staff Canteen Workers' Union [(2000) 4 SCC 245]. However, so long as the posts do exist and are manned, there appears to be no justification for granting the respondents a scale of pay lower than that sanctioned for those employees who are brought on deputation. In fact, the sequence of events, discussed above, clearly*

shows that the employees of the Corporation have been treated at par with those in Government at the time of revision of scales of pay on every occasion.”

36. The petitioners cannot avail any benefit of the aforesaid precedent for the reason that what has been held in aforesaid judgment is in the specific context of its peculiar facts. In that case, the Hon'ble Supreme Court was examining the case of a Public Sector Corporation wherein different pay scales were being applied to those who were the employees of the Corporation and those who were on deputation, on the premise that the incumbents on deputation were employees of the State Government and since the State Government had granted higher pay scale to the similar category of employees in the State Government, the persons on deputation would be entitled to same scale.

37. In light of above discussion, the petitioners have not been able to make out any case for interference by this Court in exercise of jurisdiction under Article 226 of the Constitution of India. The petition is accordingly dismissed along with pending application(s), if any.

(Satyen Vaidya)
Judge

August 21, 2025
(vt)