

PUNJAB AND HARYANA HIGH COURT CHANDIGARH  
THROUGH ITS REGISTRAR

v.

SUNDER SHAH KAPOOR AND ORS.

JANUARY 8, 1997

[S.C. AGRAWAL AND FAIZAN UDDIN, JJ.]

*Service Law: Punjab and Haryana High Court Establishment (Appointment and Conditions of Service) Rules, 1973: Rules 26, 27 and Schedule I.*

*Pay scale—Retrospective revision—Permissibility of—Revisors in High Court granted higher pay scale of Superintendent Grade II vide notification dated 5-8-1980—Held: their claim for grant of higher pay scale retrospectively from 23-1-1975 when recruitment rules were notified, not tenable—Punjab and Haryana High Court Establishment (Appointment and Conditions of Service) Rules, 1952—Constitution of India, 1950, Arts. 229(2) and 231.*

**The respondents were employed as Revisors in the High Court in which initially there were posts of Senior Translator and Junior Translator which were governed by the Punjab and Haryana High Court Establishment (Appointment and Conditions of Service) Rules, 1952. These rules were substituted by the Punjab and Haryana High Court Establishment (Appointment and Conditions of Service) Rules, 1973 in which the posts of Senior Translator and Junior Translator were designated as Revisor and Translator respectively. The 1973 Rules were issued vide notification dated 23-1-1975. Pay scale for both Revisor and Translator was the same but Revisor was given special pay in addition. However, the pay scale for these posts were revised upward retrospectively w.e.f. 1-1-1978. Schedule I to the 1973 Rules was substituted by the revised Schedule vide notification dated 5-8-1980. In the substituted Schedule the posts of Senior Translator and Junior Translator were mentioned. Against the post of Senior Translator, a 'Note' was made which stated; " Redesignated as Revisors and recommended the pay scale of Superintendent Grade II". After obtaining the approval of the President of India as required under Articles 229(2) and 231 of the Constitution of India, the revised scales were made effective vide notification dated 23-1-1986. The respondents-Revisors were given the revised pay scale of Superintendent**

A Grade II plus Special pay w.e.f. 5-8-1975 instead of from 5-8-1980. The High Court allowed the petition. Hence this appeal.

The question before this Court was whether the respondents-Revisors were entitled to the revised pay scale of Superintendent Grade II retrospectively w.e.f. 23-1-1975 instead of from 5-8-1980.

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Allowing the appeal, this Court

C HELD: 1. In the Punjab and Haryana High Court Establishment (Appointment and Conditions of Service) Rules, 1973, as originally issued on 23-1-1975, Revisors had not been placed in the same pay scale as Superintendent Grade II. The Revisors were given the pay scale of Superintendent Grade II only by Notification dated 5-8-1980 whereby Schedule I of the 1973 Rules was substituted. The Revisors, therefore, can claim the pay scale of Superintendent Grade II with effect from 5-8-1980 only and they were correctly given the said scale with effect from that date. The High Court was in error in holding that the Revisors were entitled to pay scale of Superintendent Grade II with effect from 23-1-1975. The benefit of the pay scale of Superintendent Grade II under the notification dated 5-8-1980 cannot be extended to Revisors from a date earlier than the date of the issue of the said notification. [105-H, 106-A, D-E]

E CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1248 of 1993.

From the Judgment and Order dated 27.8.92 of the Punjab & Haryana High Court in L.P.A. No. 615 of 1992.

F Rajinder Sachar, Rana Ranjit Singh, S. Srinivasan, for the appellant.

D.V. Sehgal, Sr. Adv., Anant Palli, Ms. Rekha Palli, M. Monika Gusain and Hari Om Yaduvanshi for the Respondents.

G The Judgment of the Court was delivered by

H S.C. AGRAWAL, J. The short question that falls for consideration in this appeal is whether the respondents who were employed as Revisors in the High Court of Punjab and Haryana (hereinafter referred to as 'the High Court') and were given the pay scale of Superintendent Grade II with effect from August 5, 1980 are entitled to the said scale with effect from

January 23, 1975.

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In the High Court the conditions of service of the employees were earlier governed by the High Court Establishment (Appointment and Conditions of Service) Rules, 1952 (hereinafter referred to as 'the 1952 Rules'). Under the 1952 Rules there were posts of Senior Translator and Junior Translator. Keeping in view the recommendations of the Pay Commission constituted by the State of Punjab in 1968, when the High Court Establishment (Appointment and Conditions of Service) Rules, 1973 (hereinafter referred to as 'the 1973 Rules') were made by the High Court, the posts of Senior Translator and Junior Translator were designated as Revisor and Translator respectively. The 1973 Rules were issued vide Notification dated January 23, 1975 and were published in the Chandigarh Gazette on February 1, 1975. Under Rules 26, 27 read with Schedule 1 of the 1973 Rules Revisors were placed in the scale of Rs. 225-500 with a special pay of Rs. 50 per month and Translators placed in the scale Rs. 225-500. Since Rules 26, 27 and 34 and Scheduled I, II and III of 1973 Rules, related to salaries, allowances and pension, etc. of the employees, the same were sent for approval of the President of India as required under Clause (2) of Article 229 read with Article 231 of the Constitution of India. The approval of the President of India was received vide letters dated September 25, 1985 and October 30, 1985. In the meanwhile, the pay scale of Rs. 225-500 had been revised to Rs. 600-850 with effect from January 1, 1978 and by Notification dated August 5, 1980 Schedule I of the 1973 Rules was substituted. In the substituted Schedule the posts of Senior translator and Junior Translator were mentioned. In the remarks column against the post of Senior Translator the following note was made :

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"Note : Redesignated as Revisors and recommended the pay scale of Superintendent Grade II i.e. Rs. 800-25-850-30-1000-100/40-1200/50-1400."

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Similarly, as against the post of Junior Translator the following note was made in the remarks column :

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"Redesignated as Translators and recommended the pay scale of Assistants i.e. Rs. 570-1080 & also the selection Grade."

After receiving the approval of the President of India, Notification dated January 23, 1986 was issued by the High Court wherein it was

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- A notified that Rules 26, 27 and Schedules I, I(A) and 3 shall come into effect with effect from September 25, 1985. Feeling aggrieved by the said Notification dated January 23, 1986, a number of employees working as Revisors and Translators in the High Court, including the respondents who were working as Revisors, filed a Writ Petition (C.W.P. No. 2363 of 1986)
- B in the High Court wherein they claimed that Rules 26, 27 and Schedules I I(A) and 3 should be brought into effect with effect from March 1, 1974, the date of enforcement agreed to by the then Chief Justice while approving the draft rules on the administrative side. The said Writ Petition was disposed of by the High Court by judgment dated August 6, 1987. The High Court held that in letter dated September 25, 1985 conveying the approval
- C of the President of India to Rules 26, 27 and Schedules I, I(A) and III of the 1973 Rules, it is stated that the Rules come into effect from the date of issue and since the 1973 Rules were issued by Notification dated January 23, 1973, 1975, the said Rules came into effect with effect from January 23, 1975 and all amendments to the Rules made between January 23, 1975 and
- D September 25, 1985 were to take effect from the respective dates on which such amendments were issued from time to time. The High Court, therefore, quashed the Notification dated January 23, 1986 and directed that January 23, 1975 be treated as the date of enforcement of the 1973 Rules and that the pay and allowances of the petitioners in the said Writ Petition should be fixed on the basis that the 1973 Rules came into force on January
- E 23, 1975.

Thereafter the High Court issued an order dated November 17, 1987 whereby the pay of Revisors was fixed as under :

F	Date	Scale of Pay
(i)	23.1.1975	Rs. 225-15-360/20-500 plus Rs. 50 p.m. as special pay
(ii)	1.1.1978	Rs. 600-20-700-25-850/30-1000-40-1080- 40-1120 plus Rs. 50 p.m. as special pay
G	(iii)	5.8.1980 Rs. 800-25-350-30-1000-40-1200/50-1400 plus Rs. 50 p.m. as Special pay

- Feeling aggrieved by the said order dated November 17, 1987, the respondents filed another Writ Petition (C.W.P. No. 2359 of 1988) in the
- H High Court which was allowed by a learned single Judge of the High Court

by judgment dated January 28, 1992. The learned single Judge held that under the 1973 Rules Revisors have been granted the same scale and special pay as admissible to Deputy Superintendents (who were subsequently designated as Superintendents Grade II) and, therefore, the respondents who had filed the Writ Petition in the High Court are entitled to the same pay scale as Deputy Superintendent (Superintendent Grade II) with effect from January 23, 1975. Letters Patent Appeal (L.P.A. No. 615 of 1992) filed by the appellant against the said judgement of the learned single Judge has been dismissed *in limine* by a Division Bench of the High Court by its order dated August 27, 1992. Hence this appeal.

By order dated November 17, 1987, the respondents, as Revisors, have been given the pay scale of Rs. 800-1400 which is also the pay scale of Superintendents Grade II plus Rs. 50 p.m. as special pay with effect from August 5, 1980. The question is whether the respondents are entitled to claim the same pay scale as that of Deputy Superintendent (Superintendent Grade II) with effect from January 23, 1975. The High Court has held that they are so entitled on the view that under the 1973 Rules they have been given the same pay scale as that of Deputy Superintendent (Superintendent Grade II). This view is, however, not borne out by Schedule I of the 1973 Rules as originally issued vide Notification dated January 23, 1975. Under Schedule I of the 1973 Rules, as originally notified, the post of Deputy Superintendent mentioned at serial No. 2 of the post in the Group of non- Gazetted ministerial Establishment was placed in the scale of Rs. 275-15-410/20-550 and in the revised grade of Rs. 350-25-500/30/650 with effect from June 6, 1972. The post of Revisor was mentioned at serial No. 8 in the non-Gazetted Ministerial Establishment and the pay scale fixed for the said post was Rs. 225-15-360/20-500. There was a further provision for special pay of Rs. 50 p.m. for the post of Revisor. It would thus be seen that in the 1973 Rules, as originally issued on January 23, 1975, Revisors had not been placed in the same pay scale as Deputy Superintendents, Revisors were given the Pay scale of Superintendent Grade II only by Notification dated August 5, 1980 whereby Schedule I of the 1973 Rules was substituted and against the post of Senior Translator it was mentioned in the remarks column : "Senior Translators have been redesignated as Revisors in the pay scale of Supdt. Grade II". This would show that till the Notification dated August 5, 1980 was issued Revisors had not been given the same pay scale as Superintendent Grade II. Revisors, therefore, can claim the pay scale of Superintendent Grade II with effect from August 5,

A 1980 only and they were correctly given the said scale with effect from that date under order dated November 17, 1987. The High Court was in error in quashing the said order and in directing that Revisors are entitled to pay scale of Superintendent Grade II with effect from January 23, 1975.

B In order to hold that Revisors are entitled to the same pay scale as Superintendent Grade II with effect from January 23, 1975, the learned single Judge has placed reliance on the earlier judgment of the High Court in Civil Writ Petition No. 2369 of 1986 wherein it was directed that the 1973 Rules shall be treated to have come into effect from January 23, 1975. The said Judgment lays down that the 1973 Rules, as issued by Notification  
C dated January 23, 1975 would come into force with effect from January 23, 1975. It also lays down that all amendments to the 1973 Rules made between January 23, 1975 and September 25, 1985 were to take effect from the respective dates on which such amendments were issued from time to time. Since the amendment in the Schedule I to the 1973 Rules was made by Notification dated August 5, 1980, it can only come into force with effect  
D from the date of issue of the Notification dated August 5, 1980 and not with effect from January 23, 1975 as held by the learned single Judge in the impugned judgment. The benefit of the pay scale of Superintendent Grade II under the Notification dated August 5, 1980 cannot be extended to Revisors from a date earlier than the date of the issue of the said  
E Notification.

For the reasons aforementioned, we are unable to uphold the judgment of the learned single Judge as well as order passed by the Division Bench of the High Court. The appeal is, therefore, allowed, the order dated August 27, 1992 passed in Letters Patent Appeal No. 615 of 1992 as  
F well as judgment of the learned single Judge dated January 28, 1992 passed in Civil Writ Petition No. 2359 of 1988 are, therefore, set aside and the Writ Petition filed by the respondents is dismissed. But in the circumstances there is no order as to costs.

V.S.S.

Appeal allowed.