

A STATE OF PUNJAB AND ORS.
v.
BHUPINDER SINGH AND ORS.

APRIL 2, 2004

B [V.N. KHARE, CJ., S.B. SINHA AND S.H. KAPADIA, JJ.]

Service Law:

C *Revision in scale of pay consequent upon acceptance of recommendations of the Pay Commission by the State Government—Anomaly Committee recommending higher scales of pay for certain categories of staff—Fixation of higher scale of pay—Effective date and payment of arrears—Challenge to—Single Judge of the High Court directing fixation/payment with effect from the date of recommendation (1.1.1986) by the Pay Commission—On appeal, Held: The State Government re-structured cadres in its departments by making amendments in the service regulations and recommended revised higher scales of pay prospectively—Employees would be entitled to revised scale of pay retrospectively with effect from 1.1.1986 notionally for the purpose of retiral benefits only and not for payment of arrears.*

E The main issue which arose for determination in this appeal was as to whether the revised scale of pay in respect of skilled and semi-skilled staff working in the Printing and Stationary department would be applicable with effect from 1.1.1986, on which date the State Pay Commission gave its report or with effect from 14.2.1989 on which date the State Government accepted the recommendations of the Pay Commission for implementation.

F It was contended by the appellant-State that it had recommended restructuring of its departments and granted higher revised scale of pay to the respondent-employees prospectively with effect from 14.2.1989 and that power of fixation of revised scale and its effective date lies within the discretion of the Government.

G Respondents submitted that consequent upon acceptance of the recommendations of the State Pay Commission, appellant-State wrongly placed them in the lower scale of pay; that the Anomaly Committee

recommended higher scales of pay; and that since the anomaly was accepted by the State Government, respondents/employees were entitled to the fixation of revised scales and payment of arrears due to revision in their pay scale with retrospective effect from 1.1.1986. A

Allowing the appeal, the Court

HELD: 1. Keeping in mind the recommendations of the Punjab Pay Commission to rationalize recruitment, qualifications, designation and restructuring of the cadres by amendments to the service regulations, the Administrative Department of the State Government had made recommendations for restructuring certain departments of the State Government and consequently, higher revised scales came to be granted to the employees prospectively. The respondents would be entitled to revised pay scales w.e.f. 1.1.1986, notionally for calculation of retiral benefits but they will not be paid arrears of the difference in the pay scales from the date, claimed. [721-B-D] B
C

Bhagirath Ram v. State of Punjab, (C.W.P.No.6778 of 1993) decided by Punjab & Haryana High Court on 26.7.1994, approved. D

Ram Murti and Ors. v. State of Punjab, decided by Punjab & Haryana High Court on 13.2.1996, held inapplicable. E

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4452 of 1999.

From the Judgment and Order dated 11.2.1999 of the Punjab and Haryana High Court in L.P.A. No. 79 of 1999.

H.S. Munjral and R.S. Suri for the Appellant. F

K.G. Bhagat and Debasis Misra for the Respondents.

The Judgment of the Court was delivered by

KAPADIA, J. The short question which arises for determination in this civil appeal is - whether the revised pay-scales of skilled and semi-skilled staff working in the Printing and Stationary department were applicable w.e.f. 1.1.1986 (when IIIrd Punjab Pay Commission gave its report) or w.e.f. 14.2.1989 when the State Government issued its notification implementing the recommendations of the Pay Commission. G
H

- A The facts lie within narrow compass. Respondents herein joined the service as Assistants before 1978. Subsequently, they were promoted as Supervisors. On 1.1.1986, report was submitted by the IIIrd Punjab Pay Commission which was accepted by the Government enacting Punjab Civil Service (Revised Pay) Rules under which the pay of supervisor was fixed in
- B the grade of Rs.1500-2540. Respondents made a representation pointing that a serious anomaly had arisen on account of failure to prescribe a proper pay scale for the said post. The said matter was referred to Anomaly Committee. Realising its mistake, the government fixed the pay scale of the supervisor in the grade of Rs.2000-3500 w.e.f. 28.3.1989. Aggrieved, respondents herein filed Civil Writ Petition No.1383 of 1990 in the High Court claiming pay
- C fixation w.e.f. 1.1.1986. By judgment and order dated 21.4.1998, the learned Single Judge allowed the Writ Petition in view of the earlier judgment of the Division Bench of the High Court in the case of *Bhagirath Ram v. State of Punjab*, dated 26.7.1994 in Civil Writ Petition No.6778 of 1993, directing payment w.e.f. 1.1.1986. The appellant herein carried the matter in appeal before the Division Bench of the High Court. Following the above judgment
- D in the case of *Bhagirath Ram* (supra), the Division Bench dismissed the writ appeal, however, directed the appellant herein to pay arrears of salary for 3 years and 2 months prior to the date of filing of writ petition. Hence, this civil appeal.
- E Shri H.S. Munjral, learned advocate for the appellant submitted that keeping in mind the recommendations of the IIIrd Punjab Pay Commission, the Department of Administrative Reforms vide letter dated 26.10.1988 recommended restructuring of the departments and granting of higher revised scales of pay and consequently the scales of pay of skilled and semi-skilled staff of the Department of Transport were enhanced prospectively w.e.f.
- F 3.11.1989. Similarly the scales of pay of skilled and semi-skilled staff of Printing and Stationery Department were enhanced prospectively. It was urged that fixation of the date for grant of revised pay scales is within the discretion of the Government. It was urged that revised pay was payable w.e.f. 1.1.1986, notionally as held by the Division Bench of the High Court in the case of *Ram Murti and Ors. v. State of Punjab*, dated 13.2.1996.
- G Per contra, Shri K.G. Bhagat, learned advocate for the respondents submitted that the respondents had joined the service as Assistants before 1978; that they were subsequently promoted to the post of supervisors; that on 1.1.1986 the State Pay Commission recommended higher pay which the
- H appellant accepted but wrongly fitted them in the grade of Rs.1500-2540

which created an anomaly as the Assistants were fitted in the grade of Rs.1800-3200; that the appellant realized its mistake and fitted the supervisors in the higher grade of Rs.2000-3500. Having accepted the anomaly, it was urged, the respondents were entitled to the grade of Rs. 2000 3500 w.e.f. 1.1.1986 and not from 14.2.1989. Reliance in this connection was placed on the judgment of the High Court in the case of *Bhagirath Ram* (supra).

We find merits in this civil appeal. Keeping in mind the recommendations of the IIIrd Punjab Pay Commission to rationalize recruitment, qualifications, designation and restructuring of the cadres by amendments to the service regulations, the Administrative Department made proposals on 26.10.1988. In the light of these recommendations, certain departments came in for restructuring and consequently, higher revised scales came to be granted prospectively. Accordingly, scales of pay of semi skilled and skilled staff of the Transport Department, Printing and Stationery Department herein were enhanced w.e.f. 14.2.1989, which circumstance did not exist in the case of *Bhagirath Ram* (supra). This factual aspect has been lost sight of by the High Court in the present case. In the case of *Ram Murti* (supra) the petitioners who were employees of Punjab Roadways prayed for directions to grant them revised pay scales w.e.f. 1.1.1986 instead of 3.11.1989. It was held that on 3.11.1988 the scales stood revised, and consequently, the appellants were entitled to revised pay scales w.e.f. 1.1.1986, notionally, and they were not to be paid the arrears of the difference of pay scales but they would be entitled to all consequential benefits. In our view, learned advocate for the appellant is right in his submission that the facts of the present case are covered by the judgment of the High Court in the case of *Ram Murti* (supra), special leave petition against which has been dismissed. Accordingly, we hold that the respondents herein would be entitled to revised pay scales w.e.f. 1.1.1986, notionally for calculation of retiral benefits but they will not be paid arrears of the difference in the pay scales from that date, as claimed.

For above reasons, this civil appeal stands allowed, with no order as to costs.

S.K.S.

Appeal allowed.