

CENTRAL ADMINISTRATIVE TRIBUNAL**CHANDIGARH BENCH**

O.A.NO.060/01170/2017

Orders pronounced on: 10.1.2019
(Orders reserved on: 07.12.2018)**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. P. GOPINATH, MEMBER (A)**

1. Baldev Singh age S/o Late Sh. Narota Singh, 70 years, Meter Reader, P.H. Division No.3, Sector-9, Chandigarh Administration, Chandigarh, R/o #3885/1, Sector 47-D, Chandigarh (Group-C).
2. Harbans Singh, S/o Late Shri Kartar Singh, Age 73 years, Meter Reader, P.H. Division No.3, Sector-9, Chandigarh Administration, Chandigarh, R/o Vill & PO Bhankarpur, Tehsil Dera Bassi, Distt. Mohali. (Group-C)
3. Harbans Lal S/o Sh. Ram Gopal, Meter Reader, Age 76 years P.H. Division No.3, Sector-9, Chandigarh Administration, Chandigarh, R/o Village Chadiala Soodan, Tehsil Kharar, Distt. Mohali (Group-C).
4. Jagir Singh S/o Late Sh. Mangat Ram, Meter Reader, Age 65 years P.H. Division No.3, Sector-9, Chandigarh Administration, Chandigarh, R/o #52, Guru Nanak Nagar, Baltana, Distt. Mohali (Group-C).
5. Telu Ram S/o Sh. Thunku Ram, Carpenter, Age 57 years C.P. Division No.3, Sector-16, Chandigarh Administration, Chandigarh, R/o #327, Sector-29 A, Chandigarh (Group-C).
6. Sabha Jeet S/o Sh. Sita Ram, Carpenter, Age 56 years, C.P. Division No.3, Sector-16, Chandigarh Administration, Chandigarh, R/o # 1566, Phase-2, Ram Darbar, Chandigarh (Group-C).
7. Rajinder Singh S/o Sh. Mast Ram, Carpenter, Age 58 years C.P. Division No.3, Sector-16, Chandigarh Administration, Chandigarh, R/o Village Hoshiarpur, Distt. Mohali (Group-C).
8. Rajinder Prashad, S/o Sh. Gaya Parshad, Carpenter, Age 59 years, C.P. Division No.3, Sector-16, Chandigarh Administration, Chandigarh, R/o 5259, Maloya Colony, Chandigarh (Group-C).
9. Paramjeet Singh S/o Sh. Sarwan Singh, Carpenter, Age 57 years, C.P. Division No.3, Sector-16, Chandigarh Administration, Chandigarh, R/o #4626, Sector 46D, Chandigarh (Group-C).

10. Gurdeep Singh S/o Sh. Hakam Singh, Carpenter, Age 57 years, C.P. Division No.3, Sector-16, Chandigarh Administration, Chandigarh, R/o #638/1, Mani Majra, U.T. Chandigarh (Group-C).
11. Sohan Singh, S/o Padam Singh, Carpenter, Age 57 years, C.P. Division No.6, Sector-9, Chandigarh Administration, Chandigarh, R/o #1445, Sector 23B, Chandigarh (Group-C).
12. Babu Lal S/o Sh. Piare Lal Carpenter, Age 56 years, C.P. Division No.4, Sector-9, Chandigarh Administration, Chandigarh, R/o #3379, Sector 38-D, Chandigarh (Group-C).
13. Jair Ram S/o Sh. Ram Bachan, Carpenter, Age 57 years, C.P. Division No.3, Sector-16, Chandigarh Administration, Chandigarh, R/o #5379, Maloya Colony, Chandigarh (Group-C).
14. Mool Chand S/o Sh. Ram Partap, Carpenter, Age 57 years, C.P. Division No.3, Sector-16, Chandigarh Administration, Chandigarh, R/o # 4752, Maloya Colony, Chandigarh (Group-C).
15. Satpal Singh, S/o Sh. Mast Ram, Carpenter Age 63 years, C.P. Division No.3, Sector-16, Chandigarh Administration, Chandigarh, R/o #VPO Hoshiarpur, Distt. Mohali (Group-C).
16. Balwinder Singh, S/o Sh. Balwant Singh, Carpenter, Age 60 years, C.P. Division No.3, Sector-16, Chandigarh Administration, Chandigarh, R/o #181, Village Sarangpur, U.T. Chandigarh (Group-C).
17. Paras Ram S/o Sh. Jaisi Ram, Carpenter, Age 63 years, C.P. Division No.3, Sector-16, Chandigarh Administration, Chandigarh, R/o #389, Sector-56, Chandigarh (Group-C).
18. Bhupinder Singh, S/o Sardara Singh, Carpenter, Age 60 years, C.P. Division No.3, Sector-16, Chandigarh Administration, Chandigarh, R/o # Mullanpur, Distt. Mohali (Group-C).
19. Joginder Singh S/o Sh. Bishan Singh, Carpenter, C.P. Division No.3, Sector-16, Chandigarh Administration, Chandigarh, R/o #19, Village Balongi, Adarsh Colony Distt. Mohali (Group-C) (Since decease) through his legal heirs:-
 - (A) Baljeet Kaur widow of Jiginder Singh, Age 50 years.
 - (B) Harpreet Kaur daughter of Joginder Singh, Age 33 years.
 - (C) Manpreet Kaur daughter of Joginder Singh, Age 30 years.
 - (D) Gurpreet Kaur daughter of Joginder Singh, Age 26 years.
 - (E) Sarbjot Singh son of Joginder Singh, Age 29 years.

20. Tarlochan Lal, S/o Sh. Deya Ram, Carpenter, Age 59 years, C.P. Division No.4, Sector-9, Chandigarh Administration, Chandigarh, R/o #50, Village Badheri, Sector 41D, U.T. Chandigarh (Group-C).
21. Baljit Singh, S/o Late Shri Balwant Singh, Carpenter, Age 56 years, C.P. Division No.3, Sector-9, Chandigarh Administration, Chandigarh, R/o #1282, Sector-20B, Chandigarh (Group-C).
22. Hans Raj, S/o Sh. Nagina Singh, Fitter, Age 80 years, P.H. Division No.3, Sector-9, Chandigarh Administration, Chandigarh, R/o # 2186, Sector-8C, Chandigarh (Group-C).
23. Rulda Singh S/o Late Sh. Talsa Singh, Air Conditioner Operator, Age 75 years, P.H. Division No.7, Sector-11, Chandigarh Administration, Chandigarh, R/o # Village & P.O. Sohana, Distt. Mohali (Group-C).
24. Gian Chand S/o Sh. Maghar Ram, Fitter, Age 83 years, P.H. Division No.5, Sector-9, Chandigarh Administration, Chandigarh, R/o # 2594, Sector-20 C, Chandigarh (Group-C).
25. Jagdish Singh S/o Sh. Ajmer Singh, Mechanical Fitter, Age 65 years, C.P. Division No.2, Roads Division, Sector-9, Chandigarh Administration, Chandigarh, R/o #1292, Village Jhuggian, P.O. Jaundpur, Tehsil Kharar, District S.A.S. Naga, (Group C).
26. Pritam Singh S/o Late Sh. Balwant Singh, Helper Mechanical, Age 65 years, C.P. Division No.2, Roads Division, Sector-9, Chandigarh Administration, Chandigarh, R/o Village Bhago Majra, Tehsil Mohali, Distt. Mohali (Group-C).
27. Jaspal Singh S/o Late Sh. Chet Singh, Electrician, Age 60 years, C.P. Division No.2, Roads Division, Sector-9, Chandigarh Administration, Chandigarh, R/o #48, Ward No.9, Morinda Road, Kurail, Distt. Mohali (Group - C).

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Applicants

(ARGUED BY: MR. GAURAV SHARMA, ADVOCATE)

Versus

1. The Chandigarh Administration through the Secretary Finance cum Engineering, Civil Secretariat, Deluxe Building, Sector-9, Chandigarh.
2. The Chief Engineer, Chandigarh Administration, Sector-9, Chandigarh.
3. The Superintending Engineer, Project Public Health Circle, Deluxe Building, Room No.314, 3rd Floor, Sector 9-D, Chandigarh.

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Respondents

(By: MR. VINAY GUPTA, ADVOCATE)

ORDER
SANJEEV KAUSHIK, MEMBER (J)

1. The applicant has filed this Original Application (OA) under section 19 of the Administrative Tribunals Act, 1985, for quashing the order dated 10.12.2015 (Annexure A-1) vide which their claim for removal of disparity in scale of pay granted to IOTI and non II employees, on the principle of equal pay for equal work, has been rejected and for issuance of direction to the respondents to grant them benefit in pursuance of decision of Hon'ble Punjab and Haryana in CWP No. 5902 of 2009 **NAROTAM SINGH & OTHERS VS. UNION OF INDIA & OTHERS,** decided on 10.4.2014 (Annexure A-4).

3. The facts in brief, which led to filing of the instant O.A. are that applicants joined respondent Chandigarh Administration on various posts such as Carpenter, Meter Readers, Fitters, Air Conditioner Operator, Mechanical Fitter, Helper Mechanical, Electricians etc. during 1965 to 1995. Some of them have retired while few of them are working as such till date. One applicant has expired. The claim put forth by them is that the appointment to the posts was made out of people having qualification of ITO or non ITI with certain experience and both were paid same pay scale throughout 1968 to 1996 etc. Some Matriculate Work Munshies were being paid higher pay scale of Rs.110-200 whereas non matriculates were placed in lower pay scale of Rs.90-140. The latter category raised an Industrial Dispute, which was allowed in their favour. The decision was challenged in CWP No. 11599 of 1990 and CWP No. 1977 of 1991 which were dismissed as withdrawn as respondents had agreed to grant pay scale as per qualification in Punjab Pay Commission Report. The colleagues of applicants, working as Tube Well operators etc. with qualification of ITI were granted higher pay scales as compared to non-ITI category. They approached this Tribunal

with O.A. No. 606-CH-2007 and 746-CH-2007 claiming parity of pay scales. However, the O.As were dismissed on 28.11.2008. This was challenged by applicants in CWP No. 5902 of 2009 – **NAROTAM SINGH & OTHERS VS. UNION OF INDIA & OTHERS**, which was allowed on 10.7.2014 (Annexure A-4), on the premises that once two sets of qualification were treated at par, then ITI qualified candidates cannot be granted higher pay scale. SLP © No. 7226 of 2015 was dismissed on 16.3.2015 (Annexure A-5). However, the applicants candidly admit that the said decision was made applicable to the category of Tube well Operators only, who were appointed through an open advertisement.

4. The applicants submitted representation including dated 24.7.2014 (Annexure A-6) for grant of benefit of said decision and parity in pay scale with ITI qualified employees. However, ultimately their claim has been rejected vide order dated 10.12.2015 (Annexure A-1). The applicants claim that once Hon'ble High Court has held that there cannot be any discrimination between ITI and non ITI holders for grant of pay scales, so they are also entitled to pay8 scale, at par with ITI qualification holder employees.

5. The respondents have filed a reply. They submit that the qualification was the determinative factor for grant of higher pay scale and classification drawn by the competent authority is permissible as those who do not possess ITI qualifications, cannot claim parity in pay scales to which a replication has also been filed by the applicants.

6. We have heard the learned counsel for the parties at length and examined the material on file.

7. So, the short question that arises for determination before this Court is as to whether the classification drawn by the respondents in

grant of pay scale to two categories in the same cadre is permissible or not.

8. It is not in dispute that the applicants are not ITI qualified candidates and they had been appointed with Matriculation qualification (or so) with experience in that relevant connection at relevant point of time. The category of ITI holders has been placed in higher pay scale, as compared to category of non ITI holders. In this process, we do not find any discrimination as the classification drawn by the respondents appears to be with the object sought to be achieved in creation of two categories. The Hon'ble High Court, no doubt examined the issue of Tube well Operators, but it clearly held that what the Tribunal was required to consider as well as claim of employees, who had been recruited in pursuance to said public advertisement and no other advertisement had been annexed to show as to in what manner and how the other employees were recruited and as such it was not possible to opine on those employees, who were in vacuum and Hon'ble High Court, clearly held that the decision shall be applicable to Tube well operators Grade I and Grade II recruited in pursuance to public advertisement. The applicants were well aware about these facts but have not enclosed any such advertisement in pursuance of which their claim could be examined by this Court.

9. One cannot ignore the observations made by the Hon'ble High Court qua parity in pay scales of the relevant category but in this case the applicants were supposed to stand on their own legs when direction was provided by the Hon'ble High Court. In para 4(i) of the O.A the applicants claim that they were appointed on different dates but the source and manner of appointment is conspicuously missing from the averments made therein. In that view of the matter, we do not find any

grounds made out to extent the benefit of decision of Hon'ble High Court to the applicants.

10. While Article 14 forbids class legislation, it does not forbid reasonable classification of persons, objects, and transactions by the legislature for the purpose of achieving specific ends. But classification must not be "arbitrary, artificial or evasive". It must always rest upon some real and substantial distinction bearing a just and reasonable relation to the object sought to be achieved by the legislation. Classification to be reasonable must fulfill the two conditions namely, the classification must be founded on the intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group and secondly the differentia must have a rational relation to the object sought to be achieved by the Act. The differentia which is the basis of the classification and the object of the Act are two distinct things. What is necessary is that there must be nexus between the basis of classification and the object of the Act. It is only when there is no reasonable basis for a classification that legislation making such classification may be declared discriminatory. Considering this principle, we do not find that the classification carried out by the respondents is arbitrary or does not further the object sought to be achieved by them in maintaining two categories.

11. The reliance placed by the applicants on the decision in O.A. No. 060/01136/2016 titled **AMAR SINGH & OTHERS VS. THE CHANDIGARH ADMINISTRATION & OTHERS**, decided on 26.9.2017 (Annexure A-18) would not be of any help to the applicants. In that case, the claim of the applicants had been rejected only on the ground that they were not a party to the case of Narotam Singh (supra).

12. In the wake of aforesaid prismatic reason and discussion, this O.A. turns out to be devoid of any merit and is dismissed. However, the parties are left to bear their own costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

PLACE: CHANDIGARH.
DATED: JANUARY 10, 2019

HC*

