



**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL
PRADESH)
KOHIMA BENCH**

Case No. : WP(C)/130/2022

1. Shri. Alemba Jamir,
Driver, Contingency (fixed pay)
Attached to Commissioner & Secretary (Finance),
Nagaland Civil Secretariat, Nagaland, Kohima
2. Shri. Gopal Mondal,
Driver, Contingency (fixed pay)
Directorate of Treasuries and Accounts, Nagaland, Kohima
3. Shri. Supongtoshi,
Bus Conductor, Contingency (fixed pay)
Directorate of Treasuries and Accounts, Nagaland, Kohima
4. Shri. Avezo,
Driver, Contingency (fixed pay)
Sub-Treasury Officer, Tseminiyu, Nagaland
5. Shri. Zholezo,
Driver, Contingency (fixed pay)
Directorate of Treasuries and Accounts, Nagaland, Kohima
6. Shri. Zuvekho,
Driver, Contingency (fixed pay)
Directorate of Treasuries and Accounts, Nagaland, Kohima
7. Shri. Yekuto,
Driver, Contingency (fixed pay) attached to Finance Commissioner
Nagaland Civil Secretariat Nagaland, Kohima
8. Shri. Nitenlo,
Driver, Contingency (fixed pay) attached to Finance Commissioner
Nagaland Civil Secretariat, Nagaland, Kohima
9. Shri. Tsukjemkaba,

Driver, Contingency (fixed pay)
Directorate of Treasuries and Accounts, Nagaland, Kohima

10. Shri. Awele Yhoshu,
Driver, Contingency (fixed pay)
Directorate of Treasuries and Accounts, Nagaland, Kohima
11. Shri. Tating Khamniungan,
Driver, Contingency (fixed pay)
Directorate of Treasuries and Accounts, Nagaland, Kohima
12. Shri. James R. Lotha,
Driver Contingency (fixed pay)
Directorate of Treasuries and Accounts, Nagaland Kohima
13. Shri. Monteih Konyak
Driver, Contingency(fixed pay)
Directorate of Treasuries and Accounts, Nagaland, Kohima
14. Shri. Moanungsang,
Driver, Contingency (fixed pay)
Directorate of Treasuries and Accounts, Nagaland, Kohima
15. Shri. Sentiyangba Sangtam,
Driver, Contingency (fixed pay)
Sr. Treasury Officer Kiphire, Nagaland
16. Shri. Moasunep,
Driver, Contingency (fixed pay)
Sub-Treasury Officer Mangkolemba, Mokokchung, Nagaland
17. Shri. Hongpe Konyak,
Driver Contingency (fixed pay)
South Treasury Officer, Peren, Nagaland.
18. Shri. Kewepfu,
Driver, Contingency (fixed pay)
Sub-Treasury Officer Pfutsero, Phek, Nagaland
19. Shri. O. Zanbeni Ngullie,
Driver Contingency (fixed pay)
Sub-Treasury Officer Baghty, Wokha, Nagaland
20. Shri. N. Goodwen Odyuo,
Driver, Contingency (fixed pay)
Directorate of Treasuries and Accounts, Nagaland, Kohima
21. Shri. Sosangnuken,
Driver, Contingency (fixed pay)

Directorate of Treasuries and Accounts, Nagaland, Kohima

22. Shri. Saras Subha,
Bus Conductor, Contingency (fixed pay)
Directorate of Treasuries and Accounts, Nagaland, Kohima
23. Shri. Yangtsaba Sangtam,
Driver, Contingency (fixed pay)
Sr. Treasury Officer Kiphire, Nagaland.

.....**Petitioners**

-Versus-

1. The State of Nagaland through the Chief Secretary to the Government of Nagaland, Kohima.
2. The Commissioner & Secretary to the Government of Nagaland, Personnel and Administrative Reforms Department, Nagaland, Kohima.
3. The Financial Commissioner to the Government of Nagaland, Nagaland, Kohima.
4. The Principal Director,
Directorate of Treasuries and Accounts, Nagaland, Kohima.

Advocate for the Petitioner : SUPONGWATI WALLING

Advocate for the Respondent : GOVT ADV NL

**BEFORE
HON'BLE MR. JUSTICE KAKHETO SEMA**

JUGDMENT & ORDER (ORAL)

Date : 20-07-2023

Heard Mr. Supongwati, learned counsel for the petitioners and Ms. A. Ayemi, learned Government Advocate for the State respondents.

2. The present petition has been filed by the petitioners seeking for a direction to grant minimum scale of pay as per the law laid down by the Hon'ble

Supreme Court in the case of State of Punjab & Others -versus- Jagjit Singh & Others, reported in (2017) 1 SCC 148.

3. That the petitioner No. 1 to 23 were all appointed in service in between the year 2009-2017 by the Principal Director/Director, Directorate of Treasuries and Accounts, Nagaland, Kohima and they have been continuously serving the department without any break in service till date.

4. The petitioner No.1 was appointed as contingency fixed paid driver @ Rs. 3000/- (Rupees three thousand) only per month for a period of 6(six) months by the office order dated 26/05/2011 passed by the Director, Directorate of Treasuries and Accounts, Nagaland, Kohima and is presently attached to the Commissioner & Secretary (Finance), Nagaland Civil Secretariat, Nagaland, Kohima.

5. The petitioner No.2 was appointed as contingency fixed paid driver @ Rs. 3000/- (Rupees three thousand) only per month for a period of 6(six) months w.e.f. 10/10/2009 by office order dated 29/10/2009 passed by the Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

6. The petitioner No.3 was appointed as contingency fixed paid bus conductor @ Rs. 3000/- (Rupees three thousand) only per month for a period of 6(six) months by office order dated 08/09/2010 passed by the Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

7. The petitioner No.4 was appointed as contingency fixed paid driver under the establishment of Sub-Treasury Office, Tseminyu for a period of 1 (one) year on contingency basis @ Rs. 4050/- p.m w.e.f. 17/11/2018 by office order dated 30/11/2018 passed by the Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

8. The petitioner No.5 was appointed as driver (fixed) in the Directorate of Treasuries and Accounts, Nagaland, Kohima on contingency basis @ Rs. 4050/- p.m for a period of 1(one) year by office order dated 05/02/2019 passed by the Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

9. The petitioner No.6 & 7 were both appointed as driver on contingency basis @ Rs. 4050/- p.m (fixed) for a period of 1(one) year by the common

office order dated 15/12/2017 passed by the Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

10. The petitioner No.8 was appointed as contingency fixed paid driver @ Rs. 3000/- p.m for a period of 6(six) month by office order dated 01/02/2012 passed by the Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

11. The petitioner No.9 & 10 were both appointed as contingency fixed paid driver @ Rs. 3600/- p.m for a period of 1(one) year w.e.f 01/03/2015 by the common order dated 23/05/2015 passed by the Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

12. The petitioner No.11 was appointed as contingency fixed paid driver temporarily attached to the Registrar @ Rs. 4050/- p.m for a period of 1(one) year by office order dated 15/12/2015 passed by the Principal Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

13. The petitioner No.12 was appointed as contingency fixed paid driver @ Rs. 4050/- p.m for a period of 1(one) year under the establishment of Directorate of Treasuries and Accounts, Nagaland, Kohima by office order dated 17/08/2015 passed by the Principal Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

14. The petitioner No.13 was appointed as contingency fixed paid driver @ Rs. 4050/- p.m for a period of 1(one) year w.e.f. 01/08/2015 by office order dated 19/08/2015 passed by the Principal Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

15. The petitioner No.14 was appointed as contingency fixed paid driver @ Rs. 4050/- p.m for a period of 1(one) year under the establishment of Directorate of Treasuries and Accounts, Nagaland, Kohima by office order dated 29/01/2016 passed by the Principal Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

16. The petitioner No.15 was appointed as contingency fixed paid driver @ Rs. 3600/- p.m for a period of 1(one) year by office order dated 05/04/2012 passed by the Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

17. The petitioner No.16 was appointed as contingency fixed paid driver @ Rs. 3600/- p.m for a period of 1(one) year w.e.f. 01/03/2015 by office order dated 23/03/2015 passed by the Principal Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

18. The petitioner No.17 was appointed as contingency fixed paid driver @ Rs. 3600/- p.m for a period of 1(one) year by office order dated 12/01/2011 passed by the Principal Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

19. The petitioner No.18 was appointed as contingency fixed paid driver @ Rs. 3000/- p.m for a period of 6(six) month by office order dated 13/09/2010 passed by the Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

20. The petitioner No.19 was appointed as contingency fixed paid driver @ Rs. 4050/- p.m for a period of 1(one) year w.e.f. 17/06/2017.

21. The petitioner No.20 & 21 were both appointed as contingency fixed paid driver @ Rs. 4050/- p.m while the petitioner No. 22 was appointed as contingency fixed paid bus conductor @Rs. 4050/- p.m. The petitioner No. 20, 21 & 22 were all appointed by the common order dated 17/07/2017 for a period of 1(one) year issued by the Director, Directorate of Treasuries and Accounts, Nagaland, Kohima.

22. The petitioner No.23 was appointed as driver on fixed paid basis on 05/04/2012 under the establishment of Treasury, Kiphire.

23. It is the case of the petitioners that they performed the same nature of work, duties and responsibilities as that performed by the regular drivers and the bus conductors of the department but they are denied the pay and allowances which is paid to their counterpart in the regular service of the department.

24. That the petitioners through their advocate submitted the application dated 16/08/2017 to the Public Information Officer, department of Treasuries and Accounts, Nagaland, Kohima, seeking for the following necessary information under the RTI Act, 2005;

1. *List of Drivers-Regular and fixed.*
2. *List of Vehicles under the department (specify category).*
3. *Information showing regular drivers attached to/posted with which officer.*
4. *Information showing fixed drivers attached to/posted with which officers.*
5. *No. of sanction post of drivers under the department.*
6. *Required no. of sanction post of driver.*
7. *Nature and duties perform by regular and fixed drivers.*
8. *Whether in the opinion of the department the fixed pay of Rs. 4000/- per month can be sufficient to meet the expenses of a driver and his family in the present state of falling value of Rupees and rising price? If no, specifically answer 'no'. If yes' explain the opinion of the department in this regard.*
9. *Whether the present state of treatment of commanding the fix driver to perform duties and function of regular in nature and paying them below the minimum scale of the identical post can be define as 'exploitation of labour', under the constitution of India in the opinion of the department.*
10. *What prescription do the department suggest for the welfare and upliftment of the living standard of the fix driver under your department? Explain."*

25. The reply was furnished by the Director & PIO of the department by letter dated 14/09/2017, where the reply more particularly to the Query No.7 has been furnished as follows;

"Regular and fixed pay drivers performed the same duties as per their driving license."

So also to Query No. 10, the following reply has been furnished;

"Should get Rs. 15000/- only per month."

26. The petitioners thereafter, submitted the representation dated 26/10/2021 to the Principal Director, Department of Treasuries and Accounts, Nagaland, Kohima, stating that they are performing similar works and duties as regular drivers and bus conductors but getting only a fixed pay of Rs. 6000/- per month and therefore, requested the authority to examine their case and to consider paying them the minimum scale of pay being paid to the regular

employees on the principal of Equal Pay for Equal Work.

27. The Principal Director, Directorate of Treasuries and Accounts, Nagaland, Kohima, also wrote the letter dated 07/02/2022 to the Addl. Chief Secretary and Finance Commissioner, Nagaland, Kohima, conveying that the petitioners who are skilled drivers and bus conductors are being paid a meagre pay of Rs. 6300/- p.m. for their livelihood which is not justified and therefore, requested the Addl. Chief Secretary for conversion of their monthly fixed wages to that of Time Scale of Pay under the relevant ROP Rules. However, no action has been taken on the letter written by the Principal Director.

28. It is the case of the petitioners that they had earlier filed the Writ Petition (C) No. 42/2022 seeking for a direction to the Government to consider their representation dated 26/10/2021 submitted to the Principal Director, and the letter dated 07/02/2022 written by the Principal Director to the Addl. Chief Secretary and Finance Commissioner, Nagaland, Kohima. The writ petition was disposed of, by the order dated 28/02/2022, directing the State respondents to consider the representation of the petitioners and the recommendation of the Principal Director within a period of 2(two) months from the date of receipt of the copy of the order.

29. That in the light of the order dated 28/02/2022, passed by the Court in W.P.(C) No. 42/2022, the proposal for granting the minimum scale of pay to the petitioners was examined by the Finance Department, Establishment Branch (ROP Cell) and consequent to which the letter dated 13/06/2022 was written by the Deputy Secretary to the Government of Nagaland, in the Finance Department (Treasuries and Accounts Branch) to the Principal Director, Directorate of Treasuries and Accounts, Nagaland, Kohima, conveying that "*The proposal for grant of scale pay to fixed pay contingent employees under the department of Treasuries and Accounts has been examined and it is stated that there is no scheme for grant of scale pay to fixed pay employees. Hence, they cannot be granted scale pay.*"

30. It is in the circumstances narrated in the forgoing paragraphs, that the petitioners are before this Court by way of the present writ petition.

31. Mr. Supongwati Walling, learned counsel for the petitioners submits that the petitioners who are serving as fixed pay drivers and bus conductors are all discharging the same works, duties and responsibilities as that of their counterpart who are in the regular service of the department, but they have been denied the pay and allowances as paid to the regular employees. The learned counsel for the petitioners submits that when the Director of the Treasuries and Accounts, who is also the PIO, has himself, furnished the information clearly conveying that the "*Regular and fixed pay drivers performed the same duties*"; there can be no other legitimate justification as to why the petitioners should not at least be granted the minimum scale of pay which is paid to the regular drivers. The learned counsel for the petitioners has also referred to the letter dated 07/02/2022 written by the Principal Director to the Addl. Chief Secretary and Finance Commissioner, Nagaland, Kohima, conveying that paying a meagre salary of Rs. 6300/- p.m. to the petitioners is not justified and urging the Addl. Chief Secretary and Finance Commissioner, Nagaland, Kohima, to convert the petitioners monthly fixed pay to that of time scale of pay under the relevant ROP rules. It is also submitted that this Court in the case of Shri. Yimyumetsu -versus- State of Nagaland & 4 Others, passed in W.P.(C) No.79(K)/2018 has by order dated 19/07/2018 given the liberty to the petitioner to file a fresh representation to the authorities with regard to his claim for payment of minimum scale of pay and the Government has accordingly considered the representation submitted by the petitioner and has paid the minimum scale of pay to the petitioner therein by issuing the office order dated Nil October, 2018 and therefore, the present petitioners cannot be made an exception.

32. Ms. A. Ayemi, the learned Government Advocate for the State respondents submits that the State has not framed any rules or policies for granting the scale of pay to the contingency fixed pay employees and therefore, unless specific instruction are given by the Government, the department does not have the authority to grant the minimum scale of pay to the petitioners. It is further submitted that the writ petitioner No. 1, 2, 8, 17 & 23 has also filed W.P.(C) No. 110(K)/2022 praying for regularisation of their service and the same

is still pending disposal before the Hon'ble Court. The present writ petition is therefore, misconceive and liable to be dismissed.

33. Heard the learned counsel for the parties and perused the material on record. It is not in dispute that the petitioners who are contingency fixed pay drivers and bus conductors in the Directorate of Treasuries and Accounts, Nagaland, Kohima, are performing the same nature of works, duties and responsibilities as discharged by those in the regular service of the department and this position has been admitted by none other than the Director, who is also the PIO of the department. In the affidavit filed on behalf of the Government by the Commissioner & Secretary, Finance, the only ground cited as to why the scale pay cannot be extended to the fixed pay employees is because of the reason that the Government has not formulated any scheme and/or guidelines to extend such benefits to the fixed pay employees. It is however no longer res-integra that the temporary employees which also includes contingency fixed employees etc. are entitled to pay parity which is extended to the regular employees holding the same corresponding post provided such employees performed the same nature of works, duties and responsibilities as performed by their counter parts in the regular cadre/service. The State/department therefore, cannot take a stand that since no policy has been formulated by the Government, it cannot extend the regular scale of pay to the fixed pay contingency employees who otherwise are performing the same work as their counterpart in the regular service. Such action of the State would certainly amount to discrimination and exploitation. Secondly, the State respondents has also taken the stand that since some of the petitioners have approached this Court for regularisation of their service, the present petition is misconceived. The question as to whether some of the petitioners had approached this Court for regularisation of their service is not relevant for deciding the present issue. The issue to be decided in the present case is not with regard to the subject of regularisation in service of the petitioners but as to whether the petitioners are entitled to equal pay for discharging equal works and duties as performed by the regularly appointed drivers/bus conductors. This Court has in the forgoing paragraphs observed that the department has

itself admitted that the petitioners discharged the same works and duties as performed by the regularly appointed drivers. The law is well settled that the concept of equality is not applicable to the absorption/regularisation in service since a regular appointment can be made only by making appointments consistent with the requirement of Article 14 and 16 of the Constitution of India, but the concept of equality is applicable to the issue of pay parity if the work component is the same. The law is also well settled that classification of workers doing the same work into different categories for payment of wages at different rates is not legally tenable and such an act of the employer would amount to exploitation and is violation of Article 14 of the Constitution of India.

34. In the case of **Dhirendra Chamoli & Another -versus- State of U.P.**, reported in **(1986) 1 SCC 637**, the Hon'ble Supreme Court examined a claim for pay parity raise by temporary employees for wages equal to those being disbursed to regular employees. The prayer was accepted by holding that the action of not paying the same wage despite the work being the same was considered as violative of Article-14 of the Constitution and it was further held that such action amounted to exploitation in a welfare State committed to a socialist pattern of society. The relevant portion of paragraph-2 of the said judgment is extracted as under;

“2. The argument envisaged in the counter affidavit is that since there are no sanctioned posts to which regular appointments can be made, the casual employees employed by different Nehru Yuvak Kendras cannot claim to receive the same salary and perquisites as Class IV employees appointed regularly to sanctioned posts. But while raising this argument, it is conceded in the counter affidavit that "the persons engaged by the Nehru Yuvak Kendras perform the same duties as is performed by Class IV employees appointed on regular basis against sanctioned posts". If that be so, it is difficult to understand how the Central Government can deny to these employees the same salary and conditions of service as Class IV employees regularly appointed against sanctioned posts. It is peculiar on the part of the Central Government to urge that these persons took up employment with the Nehru Yuvak Kendras knowing fully well that they will be paid only daily wages and therefore they cannot claim more. This argument lies ill in the mouth of the Central

Government for it is an all too familiar argument with the exploiting class and a Welfare State committed to a socialist pattern of society cannot be permitted to advance such an argument. It must be remembered that in this country where there is so much unemployment, the choice for the majority of people is to starve or to take employment on whatever exploitative terms are offered by the employer. The fact that these employees accepted employment with full knowledge that they will be paid only daily wages and they will not get the same salary and conditions of service as other Class IV employees, cannot provide an escape to the Central Government to avoid the mandate of equality enshrined in [Article 14](#) of the Constitution. This Article declares that there shall be equality before law and equal protection of the law and implicit in it is the further principle that there must be equal pay for work of equal value. These employees who are in the service of the different Nehru Yuvak Kendras in the country and who are admittedly performing the same duties as Class IV employees, must therefore get the same salary and conditions of service as Class IV employees. It makes no difference whether they are appointed in sanctioned posts or not. So long as they are performing the same duties, they must receive the same salary and conditions of service as Class IV employees.”

35. So also in the case of **State of Punjab & Others** -versus- **Jagjit Singh & Others** (supra), the Hon'ble Supreme Court held as under;

“44.6. In State of Karnataka case⁴³, a Constitution Bench of this Court set aside the judgment of the High Court, and directed that daily wagers be paid salary equal to the lowest grade of salary and allowances being paid to regular employees. Importantly, in this case, this Court made a very important distinction between pay parity and regularization. It was held that the concept of equality would not be applicable to issues of absorption/regularization. But, the concept was held as applicable, and was indeed applied, to the issue of pay parity – if the work component was the same. The judgment rendered by the High Court, was modified by this Court, and the concerned daily wage employees were directed to be paid wages, equal to the salary at the lowest grade of the cadre concerned.

49.1. We are of the considered view, that in para 44 extracted above, the Constitution Bench clearly distinguished the issues of pay parity and regularization in service. It was held, that on the issue of pay parity, the concept of ‘equality’ would be applicable (as had indeed been applied by the Court, in various

decisions), but the principle of 'equality' could not be invoked for absorbing temporary employees in Government service, or for making temporary employees regular/permanent. All the observations made in the above extracted paragraphs, relate to the subject of regularization/permanence, and not, to the principle of 'equal pay for equal work'. As we have already noticed above, the Constitution Bench unambiguously held, that on the issue of pay parity, the High Court ought to have directed, that the daily wage workers be paid wages equal to the salary, at the lowest grade of their cadre. This deficiency was made good by making such a direction."

36. Further in Jagjit Singh (supra) after a thread bare discussion on the subject and after referring to a catena of decisions, the Hon'ble Supreme Court has held as follows;

"57. There is no room for any doubt that the principle of 'equal pay for equal work' has emerged from an interpretation of different provisions of the Constitution. The principle has been expounded through a large number of judgments rendered by this Court, and constitutes law declared by this Court. The same is binding on all the courts in India under [Article 141](#) of the Constitution of India. The parameters of the principle have been summarized by us in para 42 hereinabove. The principle of 'equal pay for equal work' has also been extended to temporary employees (differently described as work-charge, daily wage, casual, ad-hoc, contractual, and the like). The legal position, relating to temporary employees, has been summarized by us, in para 44 hereinabove. The above legal position which has been repeatedly declared, is being reiterated by us, yet again.

58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work cannot be paid less than another who performs the same duties and responsibilities. Certainly not, in a welfare State. Such an action besides being demeaning, strikes at the very foundation of human dignity. Any one, who is compelled to work at a lesser wage does not do so voluntarily. He does so to provide food and shelter to his family, at the cost of his self respect and dignity, at the cost of his self worth, and at the cost of his integrity. For he knows that his dependents would suffer immensely, if he does not accept the lesser wage. Any act of paying less wages as compared to others similarly situate constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive,

suppressive and coercive, as it compels involuntary subjugation.

59. We would also like to extract herein [Article 7](#) of the *International Covenant on Economic, Social and Cultural Rights, 1966*. The same is reproduced below:

“7. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.”

India is a signatory to the above Covenant, having ratified the same on 10-4-1979. There is no escape from the above obligation, in view of different provisions of the Constitution referred to above, and in view of the law declared by this Court under [Article 141](#) of the Constitution of India, the principle of “equal pay for equal work” constitutes a clear and unambiguous right and is vested in every employee— whether engaged on regular or temporary basis.

60. Having traversed the legal parameters with reference to the application of the principle of “equal pay for equal work”, in relation to temporary employees (daily-wage employees, ad-hoc appointees, employees appointed on casual basis, contractual employees and the like), the sole factor that requires our determination is, whether the employees concerned (before this Court), were rendering similar duties and responsibilities as were being discharged by regular employees holding the same/corresponding posts. This exercise would require the application of the parameters of the principle of “equal pay for equal work” summarized by us in para 42 above. However, insofar

as the instant aspect of the matter is concerned, it is not difficult for us to record the factual position. We say so, because it was fairly acknowledged by the learned counsel representing the State of Punjab, that all the temporary employees in the present bunch of appeals were appointed against posts which were also available in the regular cadre/establishment. It was also accepted that during the course of their employment, the concerned temporary employees were being randomly deputed to discharge duties and responsibilities which at some point in time, were assigned to regular employees. Likewise, regular employees holding substantive posts were also posted to discharge the same work which was assigned to temporary employees from time to time. There is, therefore, no room for any doubt, that the duties and responsibilities discharged by the temporary employees in the present set of appeals were the same as were being discharged by regular employees. It is not the case of the appellants, that the respondent employees did not possess the qualifications prescribed for appointment on regular basis. Furthermore, it is not the case of the State that any of the temporary employees would not be entitled to pay parity on any of the principles summarized by us in para 42 hereinabove. There can be no doubt, that the principle of "equal pay for equal work" would be applicable to all the temporary employees concerned, so as to vest in them the right to claim wages on a par with the minimum of the pay-scale of regularly engaged Government employees holding the same post.

61. In view of the position expressed by us in the foregoing paragraph, we have no hesitation in holding that all the temporary employees concerned, in the present bunch of cases, would be entitled to draw wages at the minimum of the pay scale (at the lowest grade, in the regular pay scale), extended to regular employees holding the same post.

37. So also this Court in the case of *Shri. Yimyumetsu (supra)* has held that;

"7. In the case of Randhir Singh -vrs- Union of India, reported in 1982 1 SCC 618, the Apex Court has held that:

"It was concluded that the principle of 'equal pay for equal work', which meant equal pay for equal everyone irrespective of sex, was deducible from the preamble and Article 14, 16 & 39 (d) of the Constitution. The principle of 'equal pay for equal work', was held to be applicable to cases of unequal scales of pay, based on no classification or irrational classification, though both

sets of employees (engage on temporary and regular basis, respectively) performed identical duties and responsibilities.”

8. In the case of Bhagwan Dass -vrs- State of Haryana, reported in 1987 4 SCC 634, the Apex Court has held that persons doing similar work cannot be denied equal pay on the ground that the mode of recruitment was different. It was held that if the petitioners possess the essential qualification for appointment and the duties discharged by them were similar to those appointed on regular basis they cannot be denied wages payable to regular employees. A temporary or casual employee performing the same duties and functions is entitled the same pay as paid to regular or permanent employees.”

38. In view of the discussions made above and in the light of the law laid down by the Hon'ble Supreme Court, this Court has no hesitation in holding that the petitioners who discharges the same nature of work and duties as that of the regular drivers/bus conductors in sanctioned post are entitled to the pay parity on the principle of equal pay for equal work.

39. This Court accordingly directs the State respondents to pay to the petitioners the minimum scale of pay which is paid to the regular drivers and or bus conductors appointed against sanction post along with the arrears from the date of filing of the present writ petition. All exercise for carrying out the directions of this Court shall be completed within a period of 90(ninety) days from the date of passing of the order.

40. Writ petition allowed. No cost.

Sd/-

JUDGE

Comparing Assistant