

S. No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			WPSS No. 1957 of 2017 WPSS No. 1958 of 2017 WPSS No. 1960 of 2017 <u>Hon'ble Manoj Kumar Tiwari, A.C.J.</u> Mr. Ganesh Kandpal, Advocate for the petitioners. 2. Mr. Puran Singh Bisht, Additional Chief Standing Counsel for the State of Uttarakhand/respondents. 3. Since common questions of law and fact are involved in these writ petitions, therefore they were heard together and are being decided by a common judgment. However, for the sake of brevity, facts of Writ Petition (S/S) No. 1957 of 2017 alone are being considered and discussed. 4. Petitioners were engaged as daily wager against Group-D post in Forest Department in the year 2014. Since they were not being paid minimum of pay scale, therefore, they earlier filed WPSS No. 2677 (S/S) of 2015, which was disposed of with direction to the Competent Authority to consider the case of petitioners for grant of minimum of pay scale in terms of judgment rendered in WPSS No. 2008 of 2014. 5. Pursuant to the order of this Court passed in WPSS No. 2677 of 2015, representation made by petitioners was considered and rejected by Divisional Forest Officer, Tarai West Forest Division, Ramnagar, vide order dated 05.06.2017, which is under challenge in this writ

			petition. 6. Perusal of the impugned order dated 05.06.2017 reveals that the only ground, on which petitioners' claim for minimum of pay scale is rejected, is that, they were not appointed against a sanctioned post and they were engaged as unskilled casual labours, therefore, they are not entitled for minimum of pay scale. 7. Learned counsel for petitioners submits that the view taken by Divisional Forest Officer while rejecting petitioners' representation is contrary to the Government Order dated 12.03.2014. The said Government Order is on record as Annexure-3 to the writ petition. Perusal thereof reveals that every employee, who is serving against Group-C and Group-D post was given minimum of pay scale, but, without allowances, as per the recommendation of 6th Pay Commission, w.e.f. 01.01.2006. 8. Learned counsel for petitioner relies on the law declared by Hon'ble Supreme Court in the case of <i>State of Punjab v. Jagjit Singh, (2017) 1 SCC 148</i>. Paragraph no. 54 of the said judgment, on which reliance is placed, is extracted below:- “54. The Full Bench of the High Court while adjudicating upon the above controversy had concluded that temporary employees were not entitled to the minimum of the regular pay scale, merely for the reason, that the activities carried on by daily wagers and regular employees were similar. The Full Bench however, made two exceptions. Temporary employees, who fell in either of the two exceptions, were held entitled to wages at the minimum of the pay scale drawn by regular employees. The exceptions recorded by the Full Bench of the High Court in the impugned judgment are extracted hereunder : (Avtar Singh case [Avtar Singh v. State of Punjab, 2011 SCC OnLine P&H 15326 : ILR (2013) 1 P&H 566] , SCC OnLine P&H para 37)
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			“(1) A daily wager, ad hoc or contractual appointee against the regular sanctioned posts, if appointed after undergoing a selection process based upon fairness and equality of opportunity to all other eligible candidates, shall be entitled to minimum of the regular pay scale from the date of engagement. (2) But if daily wagers, ad hoc or contractual appointees are not appointed against regular sanctioned posts and their services are availed continuously, with notional breaks, by the State Government or its instrumentalities for a sufficient long period i.e. for 10 years, such daily wagers, ad hoc or contractual appointees shall be entitled to minimum of the regular pay scale without any allowances on the assumption that work of perennial nature is available and having worked for such long period of time, an equitable right is created in such category of persons. Their claim for regularisation, if any, may have to be considered separately in terms of legally permissible scheme. (3) In the event, a claim is made for minimum pay scale after more than three years and two months of completion of 10 years of continuous working, a daily wager, ad hoc or contractual employee shall be entitled to arrears for a period of three years and two months.” 9. Learned counsel for petitioners has also relied on a judgment dated 14.08.2015 rendered by Division Bench of this Court in WPSS No. 2008 of 2014. 10. Learned State Counsel, however, submits that only such daily wager employees, who were party to the writ petitions, which were decided with the writ petition filed by <i>Putti Lal</i>, alone are entitled for minimum of pay scale, and since, petitioners were not party to the writ petitions, which were decided with the writ petition filed by <i>Putti Lal</i>, therefore, petitioners were rightly not given benefit of minimum of pay scale. 11. The submission made by learned State Counsel cannot be accepted. Since petitioners belong to the same class of employees, to whom benefit of minimum of pay scale is being given, therefore, denial of
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			minimum of pay scale to petitioners only on the ground that they were not party in the writ petitions, which were decided with the case of <i>Putti Lal</i>, cannot be accepted. Thus, benefit of Government Order dated 12.03.2014 cannot be denied to the petitioner. 12. Even otherwise also, in view of the law laid down by Hon'ble Supreme Case in the case of <i>State of Punjab v. Jagjit Singh (supra)</i>, petitioners are entitled to minimum of pay scale, as they have served as daily wager for nearly 10 years. 13. In such view of the matter, the impugned order dated 05.06.2017 is liable to be quashed and is hereby quashed. 14. The writ petition is allowed. The Competent Authority is directed to re-consider claim of petitioners for minimum of pay scale in the light of discussion, made above. This Court hopes and expects that decision in the matter shall be taken by the Competent Authority within two months from the date of production of certified copy of this order. (Manoj Kumar Tiwari, A.C.J.) 28.12.2023 Navin
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