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**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

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**RSA-2757-2001 (O&M)  
Date of Decision : 18.10.2024**

The State of Punjab and Another

....Appellants

VERSUS

Romesh Kumar

....Respondent

**CORAM : HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Anil Bansal, DAG, Punjab.

None for the respondent

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**SUDEEPTI SHARMA, J (Oral).**

The present appeal is filed by the State of Punjab against judgment and decree dated 01.12.2000 passed by the learned District Judge, Ferozepur, whereby the appeal filed by the respondent against judgment and decree dated 24.12.1997 is allowed.

**BRIEF FACTS**

2. The brief facts of the present case as stated in the civil suit are that the respondent was employed as cleaner in Punjab Roadways, Ferozepur Depot. He initially joined the service of the department as cleaner on 04.06.1981 and his services were terminated on 16.01.1983. He raised an industrial dispute and Labour Court, Bathinda, vide its award dated 19.11.1990 ordered his reinstatement with continuity of service and full back wages. Thereafter, the respondent submitted his joining report before the department and also sent many reminders.

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He was allowed to join his duty vide order dated 01.09.1992 issued by the department. In pursuance of said award, he was paid some amount towards back-wages on account of arrears of pay and allowance as per daily wage employee rate, fixed by the Deputy Commissioner, Ferozepur. The respondent submitted in the suit that he worked equally for equal time and did similar nature of duty as the regularly appointed cleaners of the department did. Therefore, he would be entitled to the pay-scale of post of cleaner and the arrears as paid to the regular cleaners on the ground of equal pay for equal work. The award was passed by the Labour Court on 19.11.1990, but the department did not re-instate him till 01.09.1992 and even arrears of back-wages were not paid to him inspite of repeated requests. Therefore, he filed a civil suit claiming the same alongwith interest @24% per annum qua payment of arrears of back-wages paid to him on 18.08.1994. He further challenged the order dated 01.09.1992 denying him wages in the pay-scale for the post of cleaner as being paid to other cleaners.

3. Upon notice, the appellant filed written statement admitting the plaintiff as cleaner in the department and further submitted that Punjab Roadways is an Industrial Organisation and the respondent was initially appointed on daily wage basis from time to time for specified days. It was further stated that the respondent raised the industrial dispute and Labour Court, Bathinda vide its award reinstated the respondent and he was taken on duty in compliance of the said award. He was also paid the full back-wages at the rate, he was getting at the time of retrenchment of his services. It is further stated in the reply that there is no sanctioned post of daily wage in Punjab Roadways, Ferozepur and the person is employed only as and when the work arises. Therefore, he was not entitled to pay and allowance as claimed.



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4. The respondent filed replication reiterating the averments of the plaint and denying the allegations in the written statement.

5. From the pleadings of the parties, the following issues were framed by the learned Trial Court:-

1. Whether the plaintiff is entitled to the declaration prayed for?  
OPP
2. Whether notice u/s 80 CPC was served on the defendants? OPP
3. Relief.

6. After hearing both the parties and perusing the whole record, the learned trial Court dismissed the suit filed by the respondent vide its judgment and decree dated 24.12.1997 on the ground that since he was appointed for a particular limited days, therefore, he was entitled to the wages accordingly.

7. The plaintiff-respondent filed an appeal against the judgment and decree dated 24.12.1997. The same was allowed by holding that trial Court had not appreciated the controversy in question, as the respondent was claiming new relief before his retrenchment order was passed and for the period for which he was re-instated after retrenchment order was set aside by the Labour Court. Learned first appellate Court after relying upon the judgments in cases of **Kimti Lal Vs. State of Punjab and Another, 1990 (1) Recent Service Judgments; Girdhari Lal and others Vs. State of Haryana and Ors. 1996 (1) S.L.R 152 and Surinder Singh and Another Vs. The Engineer-in-chief C.P.W.D and Others 1986(1) S.L.R.435** held him entitled to equal pay for equal work as is granted to the post of cleaner. He was not held entitled to any interest.

8. Hence the present appeal.



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**SUBMISSION OF THE LEARNED COUNSEL FOR THE APPELLANT**

9. Learned State counsel for the appellants contends that the judgment passed by the learned District Judge, Ferozepur dated 01.12.2000 is against the law and facts on file and the respondent is not entitled to the relief as claimed in the civil suit filed by him. Therefore, the present appeal be allowed and judgment and decree dated 01.12.2000 passed by the learned District Judge be set aside.

10. I have heard learned counsel for the appellants - State and perused the whole record of this case.

11. A perusal of the record shows that the respondent-plaintiff joined the services of department as cleaner on 04.06.1981 and his services were terminated on 16.01.1983.

12. Vide award dated 19.11.1990, learned Labour Court, Bathinda, ordered the appellants to re-instate the respondent with continuity of service and full back-wages but he was not allowed to join by the department but ultimately he was allowed to join duty on 01.09.1992.

13. The undisputed fact is that the respondent worked on the post of cleaner continuously. He was regularised on the recommendation made by the Regularisation Committee of the Department on 06.04.1993.

14. Since the respondent worked on the post of cleaner continuously from the date of his appointment and he was regularised on 06.04.1993, therefore, the respondent would be entitled to the regular pay-scale as is granted to the regular cleaner.

15. The Hon'ble Supreme Court in the case of **Dhirendra Chamoli and Another Vs. State of U.T, 1986(1) SCC 637**, held as under:-



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*“2. These writ petitions have been initiated on the basis of two letters, one addressed by Dharendra Chamoli and the other by Mohan Singh both of whom are employees of Nehru Yuvak Kendra, Dehradun. The complaint made in the writ petitions is that there are a number of persons who are engaged by Nehru Yuvak Kendra as casual workers on daily wage basis and though they are doing the same work as is performed by Class IV employees appointed on regular basis, they are not being given the same salary and allowances as are being paid to Class IV employees. Since Nehru Yuvak Kendras have been started by the Ministry of Education, Govt. of India, we issued notice to the Central Government to show cause why the employees of the Nehru Yuvak Kendras performing the same duties as Class IV employees should not be paid the same salary and allowances. The under Secretary to the Govt. of India, Ministry of Sports has filed a counter affidavit in which it is alleged that the Nehru Yuvak Kendras have been started at different places in the country as temporary organisations and they have not yet been made permanent, with the result that there are no sanctioned posts of Class IV employees and the employees who are engaged by different Nehru Yuvak Kendras are taken as casual employees on daily wage basis. 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*



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*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*



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*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.*

16. In view of the above, I do not find any infirmity in the judgment and decree dated 01.12.2000 passed by the learned District Judge, Ferozepur. The same is upheld and the present appeal is dismissed being devoid of any merit.

17. Pending applications, if any, also stand disposed of.

October 18, 2024  
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(SUDEEPTI SHARMA)  
JUDGE

Whether speaking/non-speaking : Speaking  
Whether reportable : Yes