



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO. 18295 OF 2023 (S-RES)

BETWEEN:

1. V PURUSHOTHAMA
S/O K VARADARAJU,
AGED ABOUT 43 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE - 570024
2. MAHESHA H P
S/O LATE PARASHURAMAIAH,
AGED ABOUT 46 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE - 570024
3. PRASANNA KUMAR
S/O LATE SHETTY,
AGED ABOUT 40 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE - 570024
4. SHASHIKUMAR B K
S/O P R PUTTARAMA BALU,
AGED ABOUT 44 YEARS,
WORKING AS DRIVER,

Digitally signed
by DEVIKA M
Location: HIGH
COURT OF
KARNATAKA



MYSORE CITY CORPORATION,
MYSORE – 570024

5. RAGHAVENDRA C
S/O LATE CHALUVAIAH,
AGED ABOUT 39 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
6. RUDRESH N
S/O LATE NAGARAJU M,
AGED ABOUT 33 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
7. V N SHIVARAJU
S/O NANJAPPA,
AGED ABOUT 43 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
8. SAYED JABBAR
S/O LATE CHOTESAB,
AGED ABOUT 54 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
9. RAVI P
S/O PRAKASH S,
AGED ABOUT 44 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024



10. SAYED SAMI J
S/O JAVEED,
AGED ABOUT 38 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
11. KIRAN KUMAR H G
S/O GIRIGOWDA H C,
AGED ABOUT 31 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
12. STALIN
S/O YESHUDAS S,
AGED ABOUT 29 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
13. HEMANTH KUMAR C
S/O CHENNAIAH,
AGED ABOUT 42 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
14. SURENDRA YADAV
S/O CHOLO MAHATHO,
AGED ABOUT 31 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024



15. MANNALLI M VEERESH
S/O M RAJASHEKARA,
AGED ABOUT 34 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
16. MANJU N
S/O NANJUNDA,
AGED ABOUT 33 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
17. SHANTHAKUMAR N
S/O NAGARAJU B,
AGED ABOUT 33 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
18. MAHABOOB PASHA
S/O MASKBAL PASHA,
AGED ABOUT 50 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
19. MANCHANNA
S/O SIDDANAYAKA,
AGED ABOUT 40 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
20. PUNEETH M B
S/O BALARAJ M H,



AGED ABOUT 31 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024

21. MANJUNATH N
S/O NAGARAJU,
AGED ABOUT 34 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
22. RAVIKUMAR N
S/O LATE NATARAJU,
AGED ABOUT 31 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
23. MOHAN KUMAR K
S/O KEMPAIAH,
AGED ABOUT 35 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
24. WAJID PASHA
S/O LATE RASHEED AHMAD,
AGED ABOUT 51 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE-570024
25. PUTTU
S/O MADANAYAKA,
AGED ABOUT 51 YEARS,
WORKING AS DRIVER,



MYSORE CITY CORPORATION,
MYSORE – 570024

26. S ANAND
S/O N S SIDDRAJU,
AGED ABOUT 41 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
27. SANNAPPA M
S/O MALLAIAH,
AGED ABOUT 46 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
28. SUNDRA RAJ K
S/O KRISHNAPPA,
AGED ABOUT 40 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
29. CHETHAN
S/O KRISHNAPPA,
AGED ABOUT 32 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
30. RAJASHEKARA MURTHY N
S/O NANJUNDASWAMY
AGED ABOUT 38 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024



31. M BALAVENKATARAMANA
S/O MALLEGBUYINA VENKATESH,
AGED ABOUT 36 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
32. MOHMED IRFAN SHARIFF
S/O MOHAMMED HUSSAIN,
AGED ABOUT 37 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
33. MOHAMMED ZUHAIB
S/O NASRATHULLA,
AGED ABOUT 34 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
34. SOMANNA
S/O LATE CHIKKANNA,
AGED ABOUT 29 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
35. SHASHIDHARA R
S/O LATE RAJEGOWDA,
AGED ABOUT 48 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024



36. K BHARATH KUMAR
S/O KUMARSWAMI S N,
AGED ABOUT 35 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
37. BASAVARAJU,
S/O RACHAIAH,
AGED ABOUT 30 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
38. BHADREGOWDA
S/O MUNIYAPPA,
AGED ABOUT 33 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024
39. PALANI R
S/O RANGA,
AGED ABOUT 35 YEARS,
WORKING AS DRIVER,
MYSORE CITY CORPORATION,
MYSORE – 570024

...PETITIONERS

(BY SRI SHARATH S GOWDA, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP BY THE PRINCIPAL SECRETARY,
DEPARTMENT OF URBAN DEVELOPMENT,
VIKASA SOUDHA,
B.R. AMBEDKAR VEEDHI,
BENGALURU - 560001



2. THE STATE OF KARNATAKA
REP BY THE PRINCIPAL SECRETARY,
DEPARTMENT OF MUNICIPAL ADMINISTRATION,
VIKASA SOUDHA,
B.R. AMBEDKAR VEEDHI,
BENGALURU – 560001
3. DIRECTORATE OF MUNICIPAL ADMINISTRATION
REP BY ITS SECRETARY,
DR. B.R. AMBEDKAR ROAD,
9TH AND 10TH FLOOR,
VISHVESHWARAIHA TOWER
BENGALURU – 560001
4. THE DEPUTY COMMISSIONER
MYSURU,
KRISHNARAJA BOULEVARD ROAD,
MYSURU DISTRICT,
MYSURU – 570001
5. MYSURU CITY CORPORATION
NEW SAYYAJI RAO ROAD,
MYSURU - 570024
REP BY ITS COMMISSIONER

...RESPONDENTS

(BY SRI G RAMESH NAIK, AGA FOR R1 TO R4;
SMT. M P GEETHA DEVI, ADVOCATE FOR R5)

THIS W.P. IS FILED UNDER ARTICLE 226 AND 227 OF
CONSTITUTION OF INDIA PRAYING TO DIRECT THE
RESPONDENT AUTHORITIES TO EXTEND EQUAL PAY FOR
THE PETITIONERS ON PAR WITH THAT OF THE REGULAR
EMPLOYEES ON THE PRINCIPLE OF "EQUAL PAY FOR EQUAL



WORK” WITH ALL THE ARREARS FROM THE DATE OF THE APPOINTMENT OF THE PETITIONERS AND ETC.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, the petitioners seek for following relief's:

“(a) Issue a writ in the nature of Mandamus directing the Respondent authorities to extend equal pay for the petitioners on par with that of the regular employees on the principle of “equal pay for equal work” with all the arrears from the date of the appointment of the petitioners;

(b) Grant such other relief this Hon'ble Court deem fit and proper in the facts and circumstances of the case.”

2. A perusal of the material on record will indicate that the petitioners were appointed as drivers in the Mysore City Corporation and have been working there since 2013 onwards. The petitioners have submitted their representations during the year 2021 to 2023 seeking payment of minimum pay scale under the



principle/doctrine of “equal pay for equal work” in the light of the principles laid down by the Apex Court in the case of **STATE OF PUNJAB AND OTHERS vs JAGJIT SINGH AND OTHERS** reported in **(2017) 1 SCC 148** though they were appointed by an Outsourcing Agency. In order to substantiate their contention that they were working under respondent No.5-Corporation, various documents have been produced by them along with the writ petition as well as rejoinder to the statement of objections filed by respondent No.5. It is the grievance of the petitioners that their representations seeking the benefit of the principle/doctrine of “equal pay for equal work” have not been considered. Hence, they are before this Court by way of the present petition.

3. *Per contra*, learned counsel for respondent No.5-Corporation would reiterate the various contentions urged in the statement of objections and submits that the petitioners were not the employees of respondent No.5-Corporation and had been appointed through an Outsourcing Agency, as such, the petitioners are not entitled to the benefit of the principle of “equal pay for equal work”. Thus, there is no merit in the petition and the same is liable to be dismissed.



4. As stated *supra*, the petitioners have filed rejoinder to the aforesaid statement of objections and produced various documents including biometric attendance maintained by respondent No.5- Corporation and other records to contend that the petitioners have been working under respondent No.5-Corporation.

5. In **Jagjit Singh's** case *supra*, the Apex Court held as under:

“42. All the judgments noticed in paras 7 to 24 hereinabove, pertain to employees engaged on regular basis, who were claiming higher wages, under the principle of “equal pay for equal work”. The claim raised by such employees was premised on the ground, that the duties and responsibilities rendered by them were against the same post for which a higher pay scale was being allowed in other government departments. Or alternatively, their duties and responsibilities were the same as of other posts with different designations, but they were placed in a lower scale. Having been painstakingly taken through the parameters laid down by this Court, wherein the principle of “equal pay for equal work” was invoked and considered, it would be just and appropriate to delineate the parameters laid down by this Court. In recording the said parameters, we have also adverted to some other judgments pertaining to temporary employees (also dealt with, in the instant judgment), wherein also, this Court had the



occasion to express the legal position with reference to the principle of “equal pay for equal work”. Our consideration, has led us to the following deductions:

42.1. *The “onus of proof” of parity in the duties and responsibilities of the subject post with the reference post under the principle of “equal pay for equal work” lies on the person who claims it. He who approaches the court has to establish that the subject post occupied by him requires him to discharge equal work of equal value, as the reference post (see Orissa University of Agriculture & Technology case [Orissa University of Agriculture & Technology v. Manoj K. Mohanty, (2003) 5 SCC 188 : 2003 SCC (L&S) 645] , UT Chandigarh, Admn. v. Manju Mathur [U.T. Chandigarh, Admn. v. Manju Mathur, (2011) 2 SCC 452 : (2011) 1 SCC (L&S) 348] , SAIL case [SAIL v. Dibyendu Bhattacharya, (2011) 11 SCC 122 : (2011) 2 SCC (L&S) 192] and National Aluminium Co. Ltd. case [National Aluminium Co. Ltd. v. Ananta Kishore Rout, (2014) 6 SCC 756 : (2014) 2 SCC (L&S) 353]).*

42.2. *The mere fact that the subject post occupied by the claimant is in a “different department” vis-à-vis the reference post does not have any bearing on the determination of a claim under the principle of “equal pay for equal work”. Persons discharging identical duties cannot be treated differently in the matter of their pay, merely because they belong to different departments of the Government (see Randhir Singh*



case [Randhir Singh v. Union of India, (1982) 1 SCC 618 : 1982 SCC (L&S) 119] and D.S. Nakara case [D.S. Nakara v. Union of India, (1983) 1 SCC 305 : 1983 SCC (L&S) 145]).

42.3. *The principle of “equal pay for equal work”, applies to cases of unequal scales of pay, based on no classification or irrational classification (see Randhir Singh case [Randhir Singh v. Union of India, (1982) 1 SCC 618 : 1982 SCC (L&S) 119]). For equal pay, the employees concerned with whom equation is sought, should be performing work, which besides being functionally equal, should be of the same quality and sensitivity (see Federation of All India Customs and Central Excise Stenographers case [Federation of All India Customs and Central Excise Stenographers v. Union of India, (1988) 3 SCC 91 : 1988 SCC (L&S) 673] , Mewa Ram Kanojia case [Mewa Ram Kanojia v. All India Institute of Medical Sciences, (1989) 2 SCC 235 : 1989 SCC (L&S) 329] , Grih Kalyan Kendra Workers' Union case [Grih Kalyan Kendra Workers' Union v. Union of India, (1991) 1 SCC 619 : 1991 SCC (L&S) 621] and S.C. Chandra case [S.C. Chandra v. State of Jharkhand, (2007) 8 SCC 279 : (2007) 2 SCC (L&S) 897 : 2 SCEC 943]).*

42.4. *Persons holding the same rank/designation (in different departments), but having dissimilar powers, duties and responsibilities, can be placed in different scales of pay and cannot claim the benefit of the*



principle of “equal pay for equal work” (see Randhir Singh case [Randhir Singh v. Union of India, (1982) 1 SCC 618 : 1982 SCC (L&S) 119] , State of Haryana v. Haryana Civil Secretariat Personal Staff Assn. [State of Haryana v. Haryana Civil Secretariat Personal Staff Assn., (2002) 6 SCC 72 : 2002 SCC (L&S) 822] and Hukum Chand Gupta case [Hukum Chand Gupta v. ICAR, (2012) 12 SCC 666 : (2013) 3 SCC (L&S) 493]). Therefore, the principle would not be automatically invoked merely because the subject and reference posts have the same nomenclature.

42.5. *In determining equality of functions and responsibilities under the principle of “equal pay for equal work”, it is necessary to keep in mind that the duties of the two posts should be of equal sensitivity, and also, qualitatively similar. Differentiation of pay scales for posts with difference in degree of responsibility, reliability and confidentiality, would fall within the realm of valid classification, and therefore, pay differentiation would be legitimate and permissible (see Federation of All India Customs and Central Excise Stenographers case [Federation of All India Customs and Central Excise Stenographers v. Union of India, (1988) 3 SCC 91 : 1988 SCC (L&S) 673] and SBI case [SBI v. M.R. Ganesh Babu, (2002) 4 SCC 556 : 2002 SCC (L&S) 568]). The nature of work of the subject post should be the same and not less onerous than the reference post. Even the volume of work should be the same. And so also, the level of responsibility. If these*



parameters are not met, parity cannot be claimed under the principle of “equal pay for equal work” (see State of U.P. v. J.P. Chaurasia [State of U.P. v. J.P. Chaurasia, (1989) 1 SCC 121 : 1989 SCC (L&S) 71] and Grih Kalyan Kendra Workers' Union case [Grih Kalyan Kendra Workers' Union v. Union of India, (1991) 1 SCC 619 : 1991 SCC (L&S) 621]).

42.6. *For placement in a regular pay scale, the claimant has to be a regular appointee. The claimant should have been selected on the basis of a regular process of recruitment. An employee appointed on a temporary basis cannot claim to be placed in the regular pay scale (see Orissa University of Agriculture & Technology case [Orissa University of Agriculture & Technology v. Manoj K. Mohanty, (2003) 5 SCC 188 :2003 SCC (L&S) 645]).*

42.7. *Persons performing the same or similar functions, duties and responsibilities, can also be placed in different pay scales. Such as — “selection grade”, in the same post. But this difference must emerge out of a legitimate foundation, such as — merit, or seniority, or some other relevant criteria (see State of U.P. v. J.P. Chaurasia [State of U.P. v. J.P. Chaurasia, (1989) 1 SCC 121 : 1989 SCC (L&S) 71]).*

42.8. *If the qualifications for recruitment to the subject post vis-à-vis the reference post are different, it may be difficult to conclude that the duties and responsibilities of the posts are qualitatively similar or comparable (see*



Mewa Ram Kanojia case [Mewa Ram Kanojia v. All India Institute of Medical Sciences, (1989) 2 SCC 235 : 1989 SCC (L&S) 329] and State of W.B. v. Tarun K. Roy [State of W.B. v. Tarun K. Roy, (2004) 1 SCC 347 : 2004 SCC (L&S) 225]). In such a case the principle of “equal pay for equal work” cannot be invoked.

42.9. *The reference post with which parity is claimed under the principle of “equal pay for equal work” has to be at the same hierarchy in the service as the subject post. Pay scales of posts may be different, if the hierarchy of the posts in question, and their channels of promotion, are different. Even if the duties and responsibilities are same, parity would not be permissible, as against a superior post, such as a promotional post (see Union of India v. Pradip Kumar Dey [Union of India v. Pradip Kumar Dey, (2000) 8 SCC 580 : 2001 SCC (L&S) 56] and Hukum Chand Gupta case [Hukum Chand Gupta v. ICAR, (2012) 12 SCC 666 : (2013) 3 SCC (L&S) 493]).*

42.10. *A comparison between the subject post and the reference post under the principle of “equal pay for equal work” cannot be made where the subject post and the reference post are in different establishments, having a different management. Or even, where the establishments are in different geographical locations, though owned by the same master (see Harbans Lal case [Harbans Lal v. State of H.P., (1989) 4 SCC 459 : 1990 SCC (L&S) 71]). Persons engaged differently, and*



being paid out of different funds, would not be entitled to pay parity (see Official Liquidator v. Dayanand [Official Liquidator v. Dayanand, (2008) 10 SCC 1 : (2009) 1 SCC (L&S) 943]).

42.11. *Different pay scales, in certain eventualities, would be permissible even for posts clubbed together at the same hierarchy in the cadre. As for instance, if the duties and responsibilities of one of the posts are more onerous, or are exposed to higher nature of operational work/risk, the principle of “equal pay for equal work” would not be applicable. And also when the reference post includes the responsibility to take crucial decisions, and that is not so for the subject post (see SBI case [SBI v. M.R. Ganesh Babu, (2002) 4 SCC 556 : 2002 SCC (L&S) 568]).*

42.12. *The priority given to different types of posts under the prevailing policies of the Government can also be a relevant factor for placing different posts under different pay scales. Herein also, the principle of “equal pay for equal work” would not be applicable (see State of Haryana v. Haryana Civil Secretariat Personal Staff Assn. [State of Haryana v. Haryana Civil Secretariat Personal Staff Assn., (2002) 6 SCC 72 : 2002 SCC (L&S) 822]).*

42.13. *The parity in pay, under the principle of “equal pay for equal work”, cannot be claimed merely on the ground that at an earlier point of time the subject post*



and the reference post, were placed in the same pay scale. The principle of “equal pay for equal work” is applicable only when it is shown, that the incumbents of the subject post and the reference post, discharge similar duties and responsibilities (see State of W.B. v. Minimum Wages Inspectors Assn. [State of W.B. v. W.B. Minimum Wages Inspectors Assn., (2010) 5 SCC 225 : (2010) 2 SCC (L&S) 1]).

42.14. *For parity in pay scales under the principle of “equal pay for equal work”, equation in the nature of duties is of paramount importance. If the principal nature of duties of one post is teaching, whereas that of the other is non-teaching, the principle would not be applicable. If the dominant nature of duties of one post is of control and management, whereas the subject post has no such duties, the principle would not be applicable. Likewise, if the central nature of duties of one post is of quality control, whereas the subject post has minimal duties of quality control, the principle would not be applicable (see U.T. Chandigarh, Admn. v. Manju Mathur [U.T. Chandigarh, Admn. v. Manju Mathur, (2011) 2 SCC 452 : (2011) 1 SCC (L&S) 348]).*

42.15. *There can be a valid classification in the matter of pay scales between employees even holding posts with the same nomenclature i.e. between those discharging duties at the headquarters, and others working at the institutional/sub-office level (see Hukum Chand Gupta case [Hukum Chand Gupta v. ICAR,*



(2012) 12 SCC 666 : (2013) 3 SCC (L&S) 493]), when the duties are qualitatively dissimilar.

42.16. *The principle of “equal pay for equal work” would not be applicable, where a differential higher pay scale is extended to persons discharging the same duties and holding the same designation, with the objective of ameliorating stagnation, or on account of lack of promotional avenues (see Hukum Chand Gupta case [Hukum Chand Gupta v. ICAR, (2012) 12 SCC 666 : (2013) 3 SCC (L&S) 493]).*

42.17. *Where there is no comparison between one set of employees of one organisation, and another set of employees of a different organisation, there can be no question of equation of pay scales under the principle of “equal pay for equal work”, even if two organisations have a common employer. Likewise, if the management and control of two organisations is with different entities which are independent of one another, the principle of “equal pay for equal work” would not apply (see S.C. Chandra case [S.C. Chandra v. State of Jharkhand, (2007) 8 SCC 279 : (2007) 2 SCC (L&S) 897 : 2 SCEC 943] and National Aluminium Co. Ltd. case [National Aluminium Co. Ltd. v. Ananta Kishore Rout, (2014) 6 SCC 756 : (2014) 2 SCC (L&S) 353]).*

43. *We shall now venture to summarise the conclusions recorded by this Court, with reference to a claim of pay parity, raised by temporary employees (differently*



designated as work-charge, daily-wage, casual, ad hoc, contractual, and the like), in the following two paragraphs.

44. *We shall first outline the conclusions drawn in cases where a claim for pay parity, raised at the hands of the temporary employees concerned was accepted by this Court by applying the principle of “equal pay for equal work” with reference to regular employees:*

44.1. *In Dhirendra Chamoli case [Dhirendra Chamoli v. State of U.P., (1986) 1 SCC 637 : 1986 SCC (L&S) 187] this Court examined a claim for pay parity raised by temporary employees for wages equal to those being disbursed to regular employees. The prayer was accepted. The action of not paying the same wage despite the work being the same was considered as violative of Article 14 of the Constitution. It was held that the action amounted to exploitation — in a welfare State committed to a socialist pattern of society.*

44.2. *In Surinder Singh case [Surinder Singh v. CPWD, (1986) 1 SCC 639 : 1986 SCC (L&S) 189] this Court held, that the right of equal wages claimed by temporary employees emerged, inter alia, from Article 39 of the Constitution. The principle of “equal pay for equal work” was again applied, where the subject employee had been appointed on temporary basis, and the reference employee was borne on the permanent establishment. The temporary employee was held entitled to wages*



drawn by an employee on the regular establishment. In this judgment, this Court also took note of the fact that the above proposition was affirmed by a Constitution Bench of this Court, in D.S. Nakara case [D.S. Nakara v. Union of India, (1983) 1 SCC 305 : 1983 SCC (L&S) 145].

44.3. *In Bhagwan Dass case [Bhagwan Dass v. State of Haryana, (1987) 4 SCC 634 : 1988 SCC (L&S) 24] this Court recorded that in a claim for equal wages, the duration for which an employee would remain (or had remained) engaged, would not make any difference. So also, the manner of selection and appointment would make no difference. And therefore, whether the selection was made on the basis of open competition or was limited to a cluster of villages, was considered inconsequential, insofar as the applicability of the principle is concerned. And likewise, whether the appointment was for a fixed limited duration (six months, or one year), or for an unlimited duration, was also considered inconsequential, insofar as the applicability of the principle of “equal pay for equal work” is concerned. It was held that the claim for equal wages would be sustainable, where an employee is required to discharge similar duties and responsibilities as regular employees, and the employee concerned possesses the qualifications prescribed for the post. In the above case, this Court rejected the contention advanced on behalf of the Government, that the plea of equal wages by the employees in question, was not sustainable because*



the employees concerned were engaged in a temporary scheme, and against posts which were sanctioned on a year-to-year basis.

44.4. *In Daily Rated Casual Labour case [Daily Rated Casual Labour v. Union of India, (1988) 1 SCC 122 : 1988 SCC (L&S) 138] this Court held, that under the principle flowing from Article 38(2) of the Constitution, the Government could not deny a temporary employee, at least the minimum wage being paid to an employee in the corresponding regular cadre, along with dearness allowance and additional dearness allowance, as well as, all the other benefits which were being extended to casual workers. It was also held, that the classification of workers (as unskilled, semi-skilled and skilled), doing the same work, into different categories for payment of wages at different rates, was not tenable. It was also held, that such an act of an employer would amount to exploitation. And further that the same would be arbitrary and discriminatory, and therefore, violative of Articles 14 and 16 of the Constitution.*

44.5. *In State of Punjab v. Devinder Singh [State of Punjab v. Devinder Singh, (1998) 9 SCC 595 : 1998 SCC (L&S) 1261] this Court held that daily wagers were entitled to be placed in the minimum of the pay scale of regular employees working against the same post. The above direction was issued after accepting that the employees concerned were doing the same work as*



regular incumbents holding the same post by applying the principle of “equal pay for equal work”.

44.6. *In State of Karnataka case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , 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 regularisation. It was held that the concept of equality would not be applicable to issues of absorption/regularisation. 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 daily-wage employees concerned were directed to be paid wages equal to the salary at the lowest grade of the cadre concerned.*

44.7. *In State of Haryana v. Charanjit Singh [State of Haryana v. Charanjit Singh, (2006) 9 SCC 321 : 2006 SCC (L&S) 1804] , a three-Judge Bench of this Court held that the decisions rendered by this Court in State of Haryana v. Jasmer Singh [State of Haryana v. Jasmer Singh, (1996) 11 SCC 77 : 1997 SCC (L&S) 210] , State of Haryana v. Tilak Raj [State of Haryana v. Tilak Raj, (2003) 6 SCC 123 : 2003 SCC (L&S) 828] , Orissa University of Agriculture & Technology case [Orissa*



University of Agriculture & Technology v. Manoj K. Mohanty, (2003) 5 SCC 188 : 2003 SCC (L&S) 645] and State of W.B. v. Tarun K. Roy [State of W.B. v. Tarun K. Roy, (2004) 1 SCC 347 : 2004 SCC (L&S) 225] laid down the correct law. Thereupon, this Court declared that if the daily-wage employees concerned could establish that they were performing equal work of equal quality, and all other relevant factors were fulfilled, a direction by a court to pay such employees equal wages (from the date of filing the writ petition), would be justified.

44.8. *In State of U.P. v. Putti Lal [State of U.P. v. Putti Lal, (2006) 9 SCC 337 : 2006 SCC (L&S) 1819] , based on decisions in several cases (wherein the principle of “equal pay for equal work” had been invoked), it was held, that a daily wager discharging similar duties as those engaged on regular basis would be entitled to draw his wages at the minimum of the pay scale (drawn by his counterpart, appointed on regular basis), but would not be entitled to any other allowances or increments.*

44.9. *In U.P. Land Development Corpn. case [U.P. Land Development Corpn. v. Mohd. Khursheed Anwar, (2010) 7 SCC 739 : (2010) 2 SCC (L&S) 513] this Court noticed that the respondents were employed on contract basis on a consolidated salary. But, because they were actually appointed to perform the work of the post of Assistant Engineer, this Court directed the employer to*



pay the respondents wages in the minimum of the pay scales ascribed for the post of Assistant Engineer.

45. We shall now attempt an analysis of the judgments, wherein this Court declined to grant the benefit of “equal pay for equal work” to temporary employees in a claim for pay parity with regular employees:

45.1. In Harbans Lal case [Harbans Lal v. State of H.P., (1989) 4 SCC 459 : 1990 SCC (L&S) 71] , daily-rated employees were denied the claimed benefit under the principle of “equal pay for equal work”, because they could not establish that the duties and responsibilities of the post(s) held by them were similar/equivalent to those of the reference posts under the State Government.

45.2. In Grih Kalyan Kendra Workers' Union case [Grih Kalyan Kendra Workers' Union v. Union of India, (1991) 1 SCC 619 : 1991 SCC (L&S) 621] , ad hoc employees engaged in the Kendras were denied pay parity with regular employees working under the New Delhi Municipal Committee, or the Delhi Administration, or the Union of India, because of the finding returned in the report submitted by a former Chief Justice of India that duties and responsibilities discharged by employees holding the reference posts were not comparable with the posts held by members of the petitioner Union.

45.3. In State of Haryana v. Tilak Raj [State of Haryana v. Tilak Raj, (2003) 6 SCC 123 : 2003 SCC (L&S) 828] ,



this Court took a slightly different course, while determining a claim for pay parity raised by daily wagers (the respondents). It was concluded that daily wagers held no post, and as such, could not be equated with regular employees who held regular posts. But herein also, no material was placed on record to establish that the nature of duties performed by the daily wagers was comparable with those discharged by regular employees. Be that as it may, it was directed that the State should prescribe minimum wages for such workers and they should be paid accordingly.

45.4. *In State of Punjab v. Surjit Singh [State of Punjab v. Surjit Singh, (2009) 9 SCC 514 : (2009) 2 SCC (L&S) 696] , this Court held that for the applicability of the principle of “equal pay for equal work”, the respondents who were daily wagers, had to establish through strict pleadings and proof that they were discharging similar duties and responsibilities as were assigned to regular employees. Since they had not done so, the matter was remanded back to the High Court for a redetermination on the above position. It is therefore obvious, that this Court had accepted that where duties, responsibilities and functions were shown to be similar, the principle of “equal pay for equal work” would be applicable even to temporary employees (otherwise the order of remand would be meaningless, and an exercise in futility).*

45.5. *It is, therefore, apparent that in all matters where this Court did not extend the benefit of “equal pay for*



equal work” to temporary employees, it was because the employees could not establish that they were rendering similar duties and responsibilities as were being discharged by regular employees holding corresponding posts.

46. We have consciously not referred to the judgment rendered by this Court in State of Haryana v. Jasmer Singh [State of Haryana v. Jasmer Singh, (1996) 11 SCC 77 : 1997 SCC (L&S) 210] (by a two-Judge Division Bench), in the preceding two paragraphs (paras 44 and 45). We are of the considered view, that the above judgment needs to be examined and explained independently. The learned counsel representing the State Government, had placed emphatic reliance on this judgment. Our analysis is recorded hereinafter:

46.1. In the above case, the respondents who were daily wagers were claiming the same salary as was being paid to regular employees. A series of reasons were recorded to deny them pay parity under the principle of “equal pay for equal work”. This Court expressed the view that daily wagers could not be treated on a par with persons employed on regular basis, because they were not required to possess qualifications prescribed for appointment on regular basis. The daily wagers, it was felt, were not selected in the same manner as regular employees, inasmuch as, a regular appointee had to compete in a process of open selection, and would be appointed, only if he fell within



the zone of merit. It was also felt, that daily wagers were not required to fulfil the prescribed requirement of age at the time of their recruitment. And also because, regular employees were subject to disciplinary proceedings whereas daily wagers were not. The daily wagers, it was held, could also not be equated with regular employees because regular employees were liable to be transferred anywhere within their cadre. This Court therefore held, that those employed on daily wages could not be equated with regular employees, and as such, were not entitled to pay parity under the principle of "equal pay for equal work".

46.2. *First and foremost, it is necessary to emphasise, that in the course of its consideration in State of Haryana v. Jasmer Singh [State of Haryana v. Jasmer Singh, (1996) 11 SCC 77 : 1997 SCC (L&S) 210] , this Court's attention had not been invited to the judgment in Bhagwan Dass case [Bhagwan Dass v. State of Haryana, (1987) 4 SCC 634 : 1988 SCC (L&S) 24] , wherein on some of the factors noticed above, a contrary view was expressed. In the said case, this Court had held, that in a claim for equal wages the manner of selection for appointment would not make any difference. It will be relevant to notice, that for the posts under reference in Bhagwan Dass case [Bhagwan Dass v. State of Haryana, (1987) 4 SCC 634 : 1988 SCC (L&S) 24] , the selection of those appointed on regular basis, had to be made through the Subordinate Selection Board, by way of open selection. Whereas,*



the selection of the petitioners as daily wagers was limited to candidates belonging to a cluster of villages, and was not through any specialised selection body/agency. Despite thereof, it was held, that the benefit under the principle of “equal pay for equal work”, could not be denied to the petitioners. The aforesaid conclusion was drawn on the ground, that as long as the petitioners were performing similar duties, as those engaged on regular basis (on corresponding posts) from the standpoint of the doctrine of “equal pay for equal work”, there could be no distinction on the subject of payment of wages.

46.3. *Having noticed the conclusion drawn in State of Haryana v. Jasmer Singh [State of Haryana v. Jasmer Singh, (1996) 11 SCC 77 : 1997 SCC (L&S) 210] , it would be relevant to emphasise that in the cited judgments (noticed in para 26 onwards, up to para 41), the employees concerned, could not have been granted the benefit of the principle of “equal pay for equal work” (in such of the cases, where it was so granted), because temporary employees (daily-wage employees, in the said case) are never ever selected through a process of open selection by a specialised selection body/agency. We would therefore be obliged to follow the large number of cases where pay parity was granted rather than the instant singular judgment recording a divergent view.*



46.4. Temporary employees (irrespective of their nomenclature) are also never governed by any rules of disciplinary action. As a matter of fact, a daily wager is engaged only for a day, and his services can be dispensed with at the end of the day for which he is engaged. Rules of disciplinary action are therefore to the advantage of regular employees, and the absence of their applicability, is to the disadvantage of temporary employees, even though the judgment in State of Haryana v. Jasmer Singh [State of Haryana v. Jasmer Singh, (1996) 11 SCC 77 : 1997 SCC (L&S) 210] , seems to project otherwise.

46.5. Even the issue of transferability of regular employees referred to in State of Haryana v. Jasmer Singh [State of Haryana v. Jasmer Singh, (1996) 11 SCC 77 : 1997 SCC (L&S) 210] , in our view, has not been examined closely. Inasmuch as, temporary employees can be directed to work anywhere, within or outside their cadre, and they have no choice but to accept. This is again, a further disadvantage suffered by temporary employees, yet the judgment projects as if it is to their advantage.

46.6. It is also necessary to appreciate that in all temporary appointments (work charge, daily wage, casual, ad hoc, contractual, and the like), the distinguishing features referred to in State of Haryana v. Jasmer Singh [State of Haryana v. Jasmer Singh, (1996) 11 SCC 77 : 1997 SCC (L&S) 210] , are



inevitable, yet in all the judgments referred to above (rendered before and after the judgment in State of Haryana v. Jasmer Singh [State of Haryana v. Jasmer Singh, (1996) 11 SCC 77 : 1997 SCC (L&S) 210]), the proposition recorded in the instant judgment was never endorsed.

46.7. *It is not the case of the appellants that the respondent employees do not possess the minimum qualifications required to be possessed for regular appointment. And therefore, this proposition would not be applicable to the facts of the cases in hand.*

46.8. *Another reason for us in passing by, the judgment in State of Haryana v. Jasmer Singh [State of Haryana v. Jasmer Singh, (1996) 11 SCC 77 : 1997 SCC (L&S) 210] is, that the Bench deciding the matter had in mind, that daily wagers in the State of Haryana, were entitled to regularisation on completion of 3/5 years of service, and therefore, all the employees concerned, would in any case be entitled to wages in the regular pay scale, after a little while. This factual position was noticed in the judgment itself.*

46.9. *It is not necessary for us to refer the matter for adjudication to a larger Bench because the judgment in State of Haryana v. Jasmer Singh [State of Haryana v. Jasmer Singh, (1996) 11 SCC 77 : 1997 SCC (L&S) 210] , is irreconcilable and inconsistent with a large number of judgments, some of which are by the larger*



Benches, where the benefit of the principle in question was extended to temporary employees (including daily wagers).

46.10. *For all the above reasons we are of the view that the claim of the respondent employees cannot be considered on the basis of the judgment in State of Haryana v. Jasmer Singh [State of Haryana v. Jasmer Singh, (1996) 11 SCC 77 : 1997 SCC (L&S) 210] .*

47. *We shall now endeavour to examine the impugned judgments.*

48. *First and foremost, it is essential for us to deal with the judgment dated 11-11-2011 rendered by the Full Bench of the High Court (in Avtar Singh v. State of Punjab [Avtar Singh v. State of Punjab, 2011 SCC OnLine P&H 15326 : ILR (2013) 1 P&H 566]). A perusal of the above judgment reveals that the High Court conspicuously focussed its attention to the decision of the Constitution Bench in Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] . While dealing with the above judgment, the Full Bench expressed the view, that though at the first impression, the judgment appeared to expound that payment of minimum wages drawn by regular employees, had also to be extended to persons employed on temporary basis, but a careful reading of the same would show that, that was not so. The learned counsel representing the State of Punjab reiterated the*



above position. In order to understand the tenor of the aforesaid assertion reference was made to paras 44 and 48 of the judgment of the Constitution Bench which are extracted hereunder : [Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , SCC pp. 37 & 40]

“44. The concept of “equal pay for equal work” is different from the concept of conferring permanency on those who have been appointed on ad hoc basis, temporary basis, or based on no process of selection as envisaged by the rules. This Court has in various decisions applied the principle of equal pay for equal work and has laid down the parameters for the application of that principle. The decisions are rested on the concept of equality enshrined in our Constitution in the light of the directive principles in that behalf. But the acceptance of that principle cannot lead to a position where the court could direct that appointments made without following the due procedure established by law, be deemed permanent or issue directions to treat them as permanent. Doing so, would be negation of the principle of equality of opportunity. The power to make an order as is necessary for doing complete justice in any cause or matter pending before this Court, would not normally be used for giving the go-by to the procedure established by law in the matter of public employment. ... It would not be just or proper to pass an order in exercise of jurisdiction under Article 226 or 32 of the Constitution or in exercise of power under Article



142 of the Constitution permitting those persons engaged, to be absorbed or to be made permanent, based on their appointments or engagements. Complete justice would be justice according to law and though it would be open to this Court to mould the relief, this Court would not grant a relief which would amount to perpetuating an illegality.

48. It was then contended that the rights of the employees thus appointed, under Articles 14 and 16 of the Constitution, are violated. It is stated that the State has treated the employees unfairly by employing them on less than minimum wages and extracting work from them for a pretty long period in comparison with those directly recruited who are getting more wages or salaries for doing similar work. The employees before us were engaged on daily wages in the department concerned on a wage that was made known to them. There is no case that the wage agreed upon was not being paid. Those who are working on daily wages formed a class by themselves, they cannot claim that they are discriminated as against those who have been regularly recruited on the basis of the relevant rules. No right can be founded on an employment on daily wages to claim that such employee should be treated on a par with a regularly recruited candidate, and made permanent in employment, even assuming that the principle could be invoked for claiming equal wages for equal work. There is no fundamental right in those who have been employed on daily wages or temporarily or



on contractual basis, to claim that they have a right to be absorbed in service. As has been held by this Court, they cannot be said to be holders of a post, since, a regular appointment could be made only by making appointments consistent with the requirements of Articles 14 and 16 of the Constitution. The right to be treated equally with the other employees employed on daily wages, cannot be extended to a claim for equal treatment with those who were regularly employed. That would be treating unequals as equals. It cannot also be relied on to claim a right to be absorbed in service even though they have never been selected in terms of the relevant recruitment rules. The arguments based on Articles 14 and 16 of the Constitution are therefore overruled.”

(emphasis supplied)

49. We have given our thoughtful consideration to the observations recorded by this Court in Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , as were relied upon by the Full Bench (as also, by the learned counsel representing the State of Punjab). It is not possible for us to concur with the inference drawn by the Full Bench for the reasons recorded hereunder:

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 regularisation



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 regularisation/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.

49.2. *Insofar as para 48 extracted above is concerned, all that needs to be stated is that they were merely submissions of the learned counsel, and not conclusions drawn by this Court. Therefore, nothing further needs to be stated with reference to para 48.*

49.3. *We are therefore of the view that the High Court seriously erred in interpreting the judgment rendered by this Court in Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , by placing reliance on paras 44 and 48 extracted above, for drawing its inferences with reference to the subject of pay parity. On the above subject/issue, this Court's*



HC-KAR

NC: 2026:KHC:22585
WP No. 18295 of 2023

conclusions were recorded in para 55 (extracted in para 36, hereinabove), which have already been dealt with by us in the earlier part of this judgment.

50. It would also be relevant to mention that to substantiate its inference drawn from the judgment rendered by this Court in Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , the Full Bench of the High Court, placed reliance on State of Punjab v. Surjit Singh [State of Punjab v. Surjit Singh, (2009) 9 SCC 514 : (2009) 2 SCC (L&S) 696] , and while doing so, reference was made to the following observations recorded in paras 27 to 30 (of the said judgment). The learned counsel for the State of Punjab has reiterated the above position. Paras 27 to 30 aforementioned are being extracted hereunder : (Surjit Singh case [State of Punjab v. Surjit Singh, (2009) 9 SCC 514 : (2009) 2 SCC (L&S) 696] , SCC pp. 533-35)

“27. While laying down the law that regularisation under the constitutional scheme is wholly impermissible, the Court in State of Karnataka v. Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] had issued certain directions relating to the employees in the services of the Commercial Taxes Department, as noticed hereinbefore. The employees of the Commercial Taxes Department were in service for more than ten years. They were appointed in 1985-1986. They were sought to be regularised in terms of a



scheme. Recommendations were made by the Director, Commercial Taxes for their absorption. It was only when such recommendations were not acceded to, the Administrative Tribunal was approached. It rejected their claim. The High Court, however, allowed their prayer which was in question before this Court.

28. This Court stated : [Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , SCC pp. 19-20, para 8]

'8. ... It is seen that the High Court without really coming to grips with the question falling for decision in the light of the findings of the Administrative Tribunal and the decisions of this Court, proceeded to order that they are entitled to wages equal to the salary and allowances that are being paid to the regular employees of their cadre in government service with effect from the dates from which they were respectively appointed. It may be noted that this gave retrospective effect to the judgment of the High Court by more than 12 years. The High Court also issued a command to the State to consider their cases for regularisation within a period of four months from the date of receipt of that order. The High Court seems to have proceeded on the basis that, whether they were appointed before 1-7-1984, a situation covered by the decision of this Court in Dharwad District PWD Literate Daily Wages Employees' Assn. v. State of Karnataka [Dharwad District PWD Literate Daily Wages Employees' Assn. v. State of



Karnataka, (1990) 2 SCC 396 : 1990 SCC (L&S) 274] and the scheme framed pursuant to the direction thereunder, or subsequently, since they have worked for a period of 10 years, they were entitled to equal pay for equal work from the very inception of their engagement on daily wages and were also entitled to be considered for regularisation in their posts.'

29. It is in the aforementioned factual backdrop, this Court in exercise of its jurisdiction under Article 142 of the Constitution of India, directed : [Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , SCC p. 43, para 55]

'55. ... Hence, that part of the direction of the Division Bench is modified and it is directed that these daily-wage earners be paid wages equal to the salary at the lowest grade of employees of their cadre in the Commercial Taxes Department in government service, from the date of the judgment of the Division Bench of the High Court. Since, they are only daily-wage earners, there would be no question of other allowances being paid to them. In view of our conclusion, that the courts are not expected to issue directions for making such persons permanent in service, we set aside that part of the direction of the High Court directing the Government to consider their cases for regularisation. We also notice that the High Court has not adverted to the aspect as to whether it was regularisation or it was giving permanency that was being directed by the High Court.



In such a situation, the direction in that regard will stand deleted and the appeals filed by the State would stand allowed to that extent. If sanctioned posts are vacant (they are said to be vacant) the State will take immediate steps for filling those posts by a regular process of selection. But when regular recruitment is undertaken, the respondents in CAs Nos. 3595-612 and those in the Commercial Taxes Department similarly situated, will be allowed to compete, waiving the age restriction imposed for the recruitment and giving some weightage for their having been engaged for work in the Department for a significant period of time. That would be the extent of the exercise of power by this Court under Article 142 of the Constitution to do justice to them.'

30. We, therefore, do not see that any law has been laid down in para 55 of the judgment in Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] . Directions were issued in view of the limited controversy. As indicated, the State's grievances were limited."

(emphasis supplied)

51. Yet again, we are of the view, that the Full Bench erred in referring to the above observations, to draw its conclusions. Our reasons are summarised hereinbelow:

51.1. It is apparent that this Court in State of Punjab v. Surjit Singh [State of Punjab v. Surjit Singh, (2009) 9



HC-KAR

**NC: 2026:KHC:22585
WP No. 18295 of 2023**

SCC 514 : (2009) 2 SCC (L&S) 696] did hold that the determination rendered in para 55 of the judgment in Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , was in exercise of the power vested in this Court under Article 142 of the Constitution of India. But the above observation does not lead to the conclusion or the inference, that the principle of “equal pay for equal work” is not applicable to temporary employees. In fact, there is a positive take-away for the temporary employees. The Constitution Bench would, in the above situation, be deemed to have concluded that to do complete justice to the cause of temporary employees, they should be paid the minimum wage of a regular employee discharging the same duties. It needs to be noticed that on the subject of pay parity, the findings recorded by this Court in Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , were limited to the conclusions recorded in para 55 thereof (which we have dealt with above, while dealing with the case law on the principle of “equal pay for equal work”).

51.2. *Even in the case under reference, State of Punjab v. Surjit Singh [State of Punjab v. Surjit Singh, (2009) 9 SCC 514 : (2009) 2 SCC (L&S) 696] , this Court accepted the principle of “equal pay for equal work”, as applicable to temporary employees by requiring the State to examine the claim of the respondents for pay parity by appointing an expert committee. The expert*



committee was required to determine whether the respondents satisfied the conditions stipulated in different judgments of this Court including State of Punjab v. Charanjit Singh [State of Haryana v. Charanjit Singh, (2006) 9 SCC 321 : 2006 SCC (L&S) 1804] , wherein this Court had acceded to the proposition that daily wagers who were rendering the same duties and responsibilities as regular employees, would be entitled to the minimum wage payable to regular employees. And had therefore, remanded the matter back to the High Court for a fresh adjudication. Para 38 of the judgment in State of Punjab v. Surjit Singh [State of Punjab v. Surjit Singh, (2009) 9 SCC 514 : (2009) 2 SCC (L&S) 696] , wherein the remand was directed is being extracted below : (SCC p. 537)

“38. We, therefore, are of the opinion that the interest of justice would be subserved if the State is directed to examine the cases of the respondents herein by appointing an expert committee as to whether the principles of law laid down herein viz. as to whether the respondents satisfy the factors for invocation of the decision in State of Haryana v. Charanjit Singh [State of Haryana v. Charanjit Singh, (2006) 9 SCC 321 : 2006 SCC (L&S) 1804] in its entirety including the question of appointment in terms of the recruitment rules have been followed.”

51.3. *For all the above reasons, we are of the view that the claim of the temporary employees for minimum*



wages on a par with regularly engaged government employees cannot be declined on the basis of the judgment in State of Punjab v. Surjit Singh [State of Punjab v. Surjit Singh, (2009) 9 SCC 514 : (2009) 2 SCC (L&S) 696] .

52. The impugned judgment rendered by the Full Bench also relied upon the judgment in Satya Prakash v. State of Bihar [Satya Prakash v. State of Bihar, (2010) 4 SCC 179 : (2010) 2 SCC (L&S) 353] , which also attempted to interpret the judgment in Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] . The learned counsel for the State of Punjab also referred to the same to canvass the case of the State Government. Relevant observations relied upon are reproduced below : (Satya Prakash case [Satya Prakash v. State of Bihar, (2010) 4 SCC 179 : (2010) 2 SCC (L&S) 353] , SCC pp. 182 & 184, paras 7-9 & 15)

“7. We are of the view that the appellants are not entitled to get the benefit of regularisation of their services since they were never appointed in any sanctioned posts. The appellants were only engaged on daily wages in the Bihar Intermediate Education Council.

8. In State of Karnataka v. Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , this Court held that the courts are not expected to issue any direction for



absorption/regularisation or permanent continuance of temporary, contractual, casual, daily wage or ad hoc employees. This Court held that such directions issued could not be said to be inconsistent with the constitutional scheme of public employment. This Court held that merely because a temporary employee or a casual wage worker is continued for a time beyond the term of his appointment, he would not be entitled to be absorbed in regular service or made permanent, merely on the strength of such continuance, if the original appointment was not made by following a due process of selection as envisaged by the relevant rules. In view of the law laid down by this Court, the directions sought for by the appellants cannot be granted.

9. Para 53 of *Umadevi (3)* [*State of Karnataka v. Umadevi (3)*, (2006) 4 SCC 1 : 2006 SCC (L&S) 753] judgment, deals with irregular appointments (not illegal appointments). The Constitution Bench specifically referred to the judgments in *State of Mysore v. S.V. Narayanappa* [*State of Mysore v. S.V. Narayanappa*, AIR 1967 SC 1071] and *R.N. Nanjundappa v. T. Thimmiah* [*R.N. Nanjundappa v. T. Thimmiah*, (1972) 1 SCC 409] in para 15 of *Umadevi (3)* [*State of Karnataka v. Umadevi (3)*, (2006) 4 SCC 1 : 2006 SCC (L&S) 753] judgment as well. Let us refer to paras 15 and 16 of *Umadevi (3)* [*State of Karnataka v. Umadevi (3)*, (2006) 4 SCC 1 : 2006 SCC (L&S) 753] judgment in this context.



15. In our view, the appellants herein would fall under the category of persons mentioned in paras 8 and 55 of the judgment and not in para 53 of judgment of Umadevi (3) [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753].”

(emphasis supplied)

53. Yet again, all that needs to be stated is that the observations relied upon by the Full Bench of the High Court dealt with the issue of regularisation, and not with the concept of “equal pay for equal work”. Para 7 extracted above, leaves no room for any doubt, that the issue being considered in Satya Prakash case [Satya Prakash v. State of Bihar, (2010) 4 SCC 179 : (2010) 2 SCC (L&S) 353] pertained to regularisation of the appellants in service. Our view, that the issue being dealt with pertained to regularisation gains further ground from the fact (recorded in para 1 of the above judgment), that the appellants in Satya Prakash case [Satya Prakash v. State of Bihar, (2010) 4 SCC 179 : (2010) 2 SCC (L&S) 353] had approached this Court to claim the benefit of para 53 of the judgment in Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] . Para 53 aforementioned is reproduced below : (SCC p. 42)

“53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in State of Mysore v. S.V.



Narayanappa [State of Mysore v. S.V. Narayanappa, AIR 1967 SC 1071] , R.N. Nanjundappa v. T. Thimmiah [R.N. Nanjundappa v. T. Thimmiah, (1972) 1 SCC 409] and B.N. Nagarajan v. State of Karnataka [B.N. Nagarajan v. State of Karnataka, (1979) 4 SCC 507 : 1980 SCC (L&S) 4] and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases abovereferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such [Ed. : The matter between two asterisks has been emphasised in original as well.] irregularly [Ed. : The matter between two asterisks has been emphasised in original as well.] appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not sub judice,



need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme.”

(emphasis supplied)

A perusal of para 53 extracted above leaves no room for any doubt that the issue canvassed was of regularisation, and not pay parity. We are therefore of the view that reliance on para 53 for determining the question of pay parity (claimed by the employees concerned), resulted in the High Court drawing an incorrect inference.

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)*



“(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.”

54.1. *A perusal of the above conclusion drawn in the impugned judgment (passed by the Full Bench), reveals that the Full Bench carved out an exception for*



employees who were not appointed against regular sanctioned posts, if their services had remained continuous (with notional breaks, as well), for a period of 10 years. This category of temporary employees was extended the benefit of wages at the minimum of the regular pay scale. In Umadevi (3) case [State of Karnataka v. Umadevi (3), (2006) 4 SCC 1 : 2006 SCC (L&S) 753] , similarly, employees who had rendered 10 years' service were granted an exception (refer to para 53 of the judgment extracted in the preceding paragraph). The above position adopted by the High Court reveals, that the High Court intermingled the legal position determined by this Court on the subject of regularisation of employees, while adjudicating upon the proposition of pay parity, emerging under the principle of "equal pay for equal work". In our view, it is this mix-up, which has resulted in the High Court recording its afore-extracted conclusions.

54.2. *The High Court extended different wages to temporary employees by categorising them on the basis of their length of service. This is clearly in the teeth of the judgment in Daily Rated Casual Labour case [Daily Rated Casual Labour v. Union of India, (1988) 1 SCC 122 : 1988 SCC (L&S) 138] . In the above judgment, this Court held that classification of employees based on their length of service (those who had not completed 720 days of service, in a period of 3 years; those who had completed more than 720 days of service—with effect from 1-4-1977; and those who had completed*



1200 days of service), for payment of different levels of wages (even though they were admittedly discharging the same duties), was not tenable. The classification was held to be violative of Articles 14 and 16 of the Constitution.

54.3. *Based on the consideration recorded hereinabove, the determination in the impugned judgment rendered by the Full Bench of the High Court, whereby it classified temporary employees for differential treatment on the subject of wages, is clearly unsustainable and is liable to be set aside.*

55. *In view of all our above conclusions, the decision rendered by the Full Bench of the High Court in Avtar Singh v. State of Punjab [Avtar Singh v. State of Punjab, 2011 SCC OnLine P&H 15326 : ILR (2013) 1 P&H 566] , dated 11-11-2011, is liable to be set aside, and the same is hereby set aside. The decision rendered by the Division Bench of the High Court in State of Punjab v. Rajinder Singh [State of Punjab v. Rajinder Singh, 2009 SCC OnLine P&H 125] is also liable to be set aside, and the same is also hereby set aside. We affirm the decision rendered in State of Punjab v. Rajinder Kumar [State of Punjab v. Rajinder Kumar, 2010 SCC OnLine P&H 13009] , with the modification that the employees concerned would be entitled to the minimum of the pay scale, of the category to which they belong, but would not be entitled to allowances attached to the posts held by them.*



56. We shall now deal with the claim of temporary employees before this Court.

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 summarised 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 summarised 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. Anyone, 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 dependants 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 recognise 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.”

(emphasis supplied)

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” summarised 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 temporary employees concerned 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 summarised 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.

62. Disposed of in the above terms.”

6. In the instant case, as can be seen from the statement of objections submitted by respondent No.5-Corporation, it is the specific contention of respondent No.5-Corporation that the petitioners are not entitled to the benefit of the doctrine/principle of “equal pay for equal work” on the ground that the petitioners have not been directly appointed by respondent No.5-Corporation, but had been appointed by an Outsourcing Agency, as such, they were not entitled for “equal pay for equal work”.

7. In this context, it is well settled that if a person works under ad hoc/temporary/daily wages/casual basis/contractual and the like would be entitled to regularisation as held by the Apex Court



and this Court in various judgments. By virtue of the said principle coupled with the judgment of the Apex Court in **Jagjit Singh's** case *supra*, I am of the considered opinion that the contention of the learned counsel for respondent No.5-Corporation that the petitioners were not appointed directly by them, but have been appointed through an Outsourcing Agency, for the purpose of depriving and denying them for the benefit of 'equal pay for equal work' cannot be accepted. In other words, having regard to the well settled position of law that contractual/temporary/daily wage/casual basis and the like appointed through Outsourcing Agencies and working under respondent No.5-Corporation would be entitled to seek regularization. I am of the considered opinion that the contention of respondent No.5-Corporation that the petitioners would not be entitled to 'equal pay for equal work" cannot be accepted.

8. It is undisputed fact that though the petitioners submitted their representation at Annexure-'M' series (colli), the respondents have not considered the same and have not passed any order in this regard so far. Under these circumstances, I am of the considered opinion that the present petition deserves to be disposed of directing respondent No.5-Corporation to address the grievances of the petitioners and consider and pass an appropriate



order/take appropriate decision pursuant to the representations of the petitioners at Annexure-‘M’ series (colli) dated 23.12.2021, 23.12.2021, 06.01.2022 and 11.01.2023 in accordance with law bearing in mind the observations made in the body of this Order and the principles laid down by the Apex Court in **Jagjit Singh's** case *supra* within a period of two months from the date of receipt of a copy of this Order.

9. Subject to the aforesaid observations and directions, the petition stands ***disposed of.***

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

SN