

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

CWP No. 5827 of 2016

Date of decision: 28.4.2016

Narinder Singh & anr.

... Petitioners

Versus

State of Punjab & ors.

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. SK Arora, Advocate,
for the petitioner.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J.(Oral)

1. The sole issue raised in the legal notice dated September 28, 2015 was a claim for regularization of services rendered as a daily wage employee for a period of eight years prior to the serving a notice of demand for justice, that is, from 2007. However, by that time the decision of the Constitution Bench of the Supreme Court in State of Karnataka & others v. Uma Devi & others, 2006 (4) SCC I had been pronounced on April 10, 2006 restraining High Courts from issuing orders of regularization for the asking. The respondents have replied to the legal notice vide letter dated November 4, 2015 refuting the claim for regularization.

2. I find no illegality in the stand taken in the reply to the legal notice or any perversity an error committed and therefore would not consider it fit to interfere in the matter involving financial liability. Pay and pay-scale matters in their relation to duties and responsibilities and

the degrees of performance are in the domain of executive functions.

3. Besides the claim for regularization of services, the petitioners have raised in this petition a claim for award of the minimum of the regular pay scales attached to the posts. It is submitted that this aspect is covered by judicial precedents and to this end the decision of the Supreme Court in *State of U.P. & ors. v. Putti Lal*, 2006 (9) SCC 337 is cited in support of the case. I find that this last prayer was not made in the legal notice and therefore the reply was not expected to respond to the claim. If the claim is covered by judicial precedents then it would be more appropriate for the petitioners to approach the competent authority in the first instance to take a decision on the claim before entertaining the petition directly in writ jurisdiction.

4. Therefore, the petitioners are relegated to their remedy before the competent authority to claim minimum of the pay scales granted to regular Sweepers and Peons. In case the petitioners make a representation to the college authorities to grant them the minimum pay scales admissible to their regular counterparts, the same will be decided by passing a speaking order after hearing the petitioners, in case they make a request for personal hearing. In case, the representation is made within ten days, the same will be decided within six weeks. While deciding on the rights of the petitioners it is expected that the respondents would keep in mind the decision of the Full Bench of this Court in *Avtar Singh v. State of Punjab & ors.*, 2012(1) SLR 832: 2012(2) SCT 31: 2012 (1) PLR 1 on the proposition of payment of the minimum pay scales of regular employees doing the same category of work since the work

indisputably is of a perennial nature.

4. With these directions and observations, the petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

28.4.2016
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