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

**CM NO. 6944 of 2015 in/and**
**RA No. 246 of 2015 in**
**CWP No. 15684 of 2003**
**Date of Decision: 15.12.2016**

Bimal Anjum and another

.....Petitioners

Vs.

Kurukshetra University, Kurukshetra and others

.....Respondents

**CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

Present : Mr. A.S. Virk, Advocate
for the applicant/respondent-University.

Mr. Bhupinder Malik, Advocate for
Mr. Samrat Malik, Advocate
for the non-applicant/petitioners.

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**RAMESHWAR SINGH MALIK J. (ORAL)**

Applicant/respondent-University seeks review of the order dated 17.12.2014 passed by this Court to the limited extent that non applicants-petitioners, being contractual employees, would not be entitled for regular pay scale granted to the regularly appointed employees, however, they would be entitled to minimum of regular pay scale without any allowances.

Heard learned counsel for the parties.

Learned counsel for the respondent-University, at the very outset, fairly states that the controversy has now been settled by Hon'ble the Supreme Court, while reversing the Full Bench judgment of this Court in

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**Avtar Singh Vs. State of Punjab and others, 2012 (1) PLR 1**, vide its recent judgment dated 26.10.2016 passed in **Civil Appeal No. 213 of 2013 (State of Punjab and others Vs. Jagjit Singh and others)**. In this regard, he places reliance on the ratio laid down by the Hon'ble Supreme Court in para 44, 76 and 82 of its judgment in Jagjit Singh's case (supra).

When confronted with the abovesaid law laid down by Hon'ble the Supreme Court in Jagjit Singh's case (supra), learned counsel for the non-applicants/petitioners had no answer and rightly so, it being a matter of record.

The relevant observations made by Hon'ble the Supreme Court in para 76, 82 and 83 of its judgment in Jagjit Singh's case (supra), which can be gainfully followed in the present case, read as under:-

> *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 & Ors. (CWP no. 14796 of 2003), 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 & Ors. v. Rajinder Singh & Ors. (LPA no. 337 of 2003, decided on 7.1.2009) is also liable to be set aside, and the same is also hereby set aside. We affirm the decision rendered in State of Punjab & Ors. v. Rajinder Kumar (LPA no. 1024 of 2009, decided on 30.8.2010), with the modification, that the concerned employees would be entitled to the minimum of the pay-scale, of the category*

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*to which they belong, but would not be entitled to allowances attached to the posts held by them.*

*xx xx xx xx*

*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 concerned employees (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' ummarized by us in paragraph 42 above. However, insofar as the instant aspect of the matter is concerned, it is not difficult for us to record the factual position. We say so, because it was fairly acknowledged by the learned counsel representing the State of Punjab, that all the temporary employees in the present bunch of appeals, were appointed against posts which were also available in the regular cadre/establishment. It was also accepted, that during the course of their employment, the concerned temporary employees were being randomly deputed to discharge duties and responsibilities, which at some point in time,*

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*were assigned to regular employees. Likewise, regular employees holding substantive posts, were also posted to discharge the same work, which was assigned to temporary employees, from time to time. There is, therefore, no room for any doubt, that the duties and responsibilities discharged by the temporary employees in the present set of appeals, were the same as were being discharged by regular employees. It is not the case of the appellants, that the respondent-employees did not possess the qualifications prescribed for appointment on regular basis. Furthermore, it is not the case of the State, that any of the temporary employees would not be entitled to pay parity, on any of the principles summarized by us in paragraph 42 hereinabove. There can be no doubt, that the principle of 'equal pay for equal work' would be applicable to all the concerned temporary employees, so as to vest in them the right to claim wages, at par with the minimum of the pay-scale of regularly engaged Government employees, holding the same post.*

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

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*the regular pay-scale), extended to regular employees, holding the same post."*

Reverting to the peculiar fact situation of the case in hand, it is not in dispute that non applicants-petitioners were working on contractual basis. Although in the order dated 17.12.2014, under review, this Court did not issue any direction to the applicant/respondent-University to pay the benefit of regular pay scale to the petitioners-non applicants, yet in the peculiar facts and circumstances of the case, applicant-University is justified to seek review to the limited extent indicated above, so as to ensure that no ambiguity is left, while implementing the order.

In view of the abovesaid undisputed fact situation and respectfully following the law laid down by Hon'ble the Supreme Court in Jagjit Singh's case (supra), instant application is allowed. Order dated 17.12.2014 is modified to the limited extent, clarifying that non-applicants/petitioners would not be entitled for the same regular pay scale which was being granted to their regular counterparts. Petitioners/non-applicants shall be entitled only to the minimum of the pay scale (at the lowest grade, in the regular pay scale) without any allowance attached thereto.

With the abovesaid observations made, instant review application is disposed of.

15.12.2016 **(RAMESHWAR SINGH MALIK)**
*Ak Sharma* **JUDGE**

*Whether speaking/reasoned Yes/No*
*Whether reportable: Yes/No*