

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

**Regular Second Appeal No.2327 of 2002 (O&M)
Date of Decision : December 2, 2017**

Ch.Charan Singh Haryana Agricultural University, Hisar and others

... Appellants

Versus

Wazir Singh and others

... Respondents

CORAM : HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present : Mr. Saroj Malakar, Advocate,
for the appellants.
Mr. Jitendra Sharma, Advocate
for the respondents

RAJ SHEKHAR ATTRI, J.

The defendants-appellants have come up in this regular second appeal feeling aggrieved by the concurrent findings of the courts below vide which suit filed by the plaintiffs (respondents herein) was decreed by the trial court and the first appeal preferred by the defendants was dismissed.

The facts necessary for the disposal of the appeal are that the plaintiffs were initially appointed as daily paid labourers (DPL). However, appellant-defendant No.2-Estate Officer-cum-Chief Engineer of the University had issued order dated 24.9.1993 (Ex.P1) with regard to regularization of their services on the post of DPL on regular basis in the pay scale of ₹ 750-940 plus ₹ 30/- as special pay plus other allowances as admissible to the post with effect from 1.4.1993

However, vide order dated 7.4.1998 (Ex.D4), the plaintiffs were given the pay scale of ₹ 950-1400 with effect from 23.3.1998 instead of 1.4.1993 and they were re-designated as Water Pump Operators vide

order Ex.P2. Earlier also, the University has appointed various persons as work charge on daily wages. However, their services were regularized with effect from 31.12.1986 vide letter No.6/1/87-2GSI dated 24.3.1987 issued by Joint Secretary, General Administration, Government of Haryana and were given the pay scale of ₹ 950-1400. The plaintiffs are claiming similar pay scale of ₹ 950-1400 with effect from 1.4.1993.

It is the case of the plaintiffs that the qualifications and nature of work of all the persons, who have been working on the above said post of Water Pump Operator and were given pay scale of ₹ 950-1400, were similar to the plaintiffs but the University in an arbitrary and discriminatory manner has given higher pay scales of ₹ 950-1400 to those employees from the date of their regularization with effect from 31.12.1986. The plaintiffs are claiming parity in pay scale from the date when their services were regularized on the analogy that of their counter parts working in the same University on the similar post of Pump Operators were being paid pay scale of ₹ 950+1400. Thus, through the instant suit the plaintiffs are seeking regular pay scale of ₹ 950-1400 instead of ₹ 750-940 with effect from 1.4.1993.

The suit has been contested by the appellants-defendants on the ground, *inter alia* that the plaintiffs were working as DPL. However, as per the policy of the State, all the DPLs who have completed five years as on 31.3.1993 were regularized and they were put in minimum pay grade as admissible to Group D employees.

It is also alleged that in view of the instructions of the University, the posts of DPL were created in the pay scale of ₹ 750-940 plus

Even the plaintiffs approached Vice Chancellor of the University to remove the designation of DPL/R and they sought pay scale of ₹ 950-1400 which was declined.

However, it is admitted by the defendants that vide order dated 27.1.1995 (Ex.DW1/A), the plaintiffs were designated as Class III posts but they were asked to work on the previous pay scale of ₹ 750-940 plus ₹ 30 as special pay.

It has also been added in the written statement that the nature of services of the plaintiffs is different to the services of other similarly situated counter-parts in the department, therefore, they are not entitled to pay scale of ₹ 950-1400.

From the pleadings of the parties, the following issues were struck in the case : -

1. Whether the plaintiffs are entitled to get a pay scale of ₹ 950-1400 instead of ₹ 750-940 as their counter-parts? OPP
2. Whether the suit of the plaintiffs are not maintainable in the present form? OPD
3. Whether the suit of the plaintiffs has no cause of action to file the present form? OPD
4. Whether the suit of the plaintiffs are barred by limitation? OPD
5. Whether the plaintiffs are estopped their act and conduct from filing the present suit? OPD
6. Whether the suit of the plaintiffs is bad on account of mis-joinder of plaintiffs and defendants? OPD
7. Relief.

Learned trial Court has afforded adequate opportunity to both the parties to adduce evidence. On appreciation of evidence, the suit was decreed by the learned trial Court on 5.3.2001. The present appellant preferred first appeal which was dismissed on 3.11.2001 by the learned Additional District Judge, Hisar.

I have heard the learned counsel for the parties and gone through the record.

It is an admitted fact that the plaintiffs were appointed as Daily Wage Workers. However, their services were regularized w.e.f. 1.4.1993 and subsequently, vide order Ex.D4, they were designated as Water Pump Operators in the pay scale of ₹ 950-1400, albeit, they were not given the pay scale of ₹ 950-1400 with effect from 1.4.1993. A bare perusal of Ex.D4 transpires that initially 125 employees were appointed as DPL on *ad hoc* basis and subsequently, their services were regularized with effect from 1.4.1993 and later on, they were given the different designations keeping in view the nature of their respective jobs and awarded pay scale of Group-D employees. The qualification of the plaintiff is similar to those who were granted pay scale of ₹ 950-1400 with effect from 31.12.1986 vide order No.CE/98/A.1/3453-3603 dated 7.4.1998 (Ex.D4) . In both the cases, the employees were working on the daily paid basis. Ex.D1 transpires that although the services of the plaintiffs were regularized as DPL with effect from 1.4.1993 but they were given pay scale of ₹ 750-940 plus ₹ 30 special pay without any reason because the similarly situated persons whose services were regularized with effect from 31.12.1986, as pump operators, were given the pay scale of ₹ 950-1400. There is no reasoning or intelligent

differentia behind this discriminatory act of the appellants.

It is now well settled that similarly situated employees be awarded similar pay grade on the basis of equal work equal pay. Hon'ble Supreme in **State of Punjab and others v. Jagjit Singh and others**, AIR 2016 SC 5176 has occasion to discuss in detail the law on this matter. In the concluding paragraphs 57 and 58, it has been observed as under : -

“57. 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’ summarised 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, 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 paragraph 42 herein above. 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.

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

On the independent appraisal of the evidence and other material available on the record, this Court is of the view that the plaintiffs are entitled to pay scale of ₹ 950-1400 with effect from 1.4.1993. Thus, the findings of the courts below are based upon proper appreciation of evidence and law and they do not require interference. Consequently, the impugned judgment and decrees of the courts below stand upheld. As a result, this appeal sans merit and the same is dismissed with costs.

December 2, 2017

Paritosh Kumar

(RAJ SHEKHAR ATTRI)

JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No