

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

CWP No. 8110 of 2017

Date of decision : 04.07.2018

Subhash Chand

..Petitioner

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Gopal Sharma, Advocate
for the petitioner.

Mr. Gaurav Jindal, Addl. A. G, Haryana

RITU BAHRI, J.

This petition under Articles 226/227 of the Constitution of India is for issuance of writ in the nature of mandamus directing respondent No 1 to 4 to grant equal pay to the petitioner as granting to other co-employee, who joined the service along with petitioner on the post of Driver in the office of respondent No. 3

Pursuant to recruitment notice for the recruitment of Drivers in Haryana Roadways vide advertisement No. 1/2012 (Annexure P-1), petitioner was issued appointment letter dated 21.01.2014 (Annexure P-2) and he joined on 23.01.2014 (Annexure P-3) along with other co-employee (driver) namely Rajesh Kumar, Driver No. SPL 141. The petitioner got the driving No. SPL 134

However, the other similarly situated co-employee are getting salary more than Rs.23,000/- per month and the petitioner is getting

Rs.10,000/- month as salary. The copy of bank passbook (Annexure P-5) showing that Rajesh Kumar (co-employee) is getting more than Rs.23,000/- per month as salary since August, 2014. The petitioner sent a legal notice dated 29.11.2016 (Annexure P-9) seeking grant of equal pay at par with other similarly situated employee-drivers, to which respondent No. 3 has also given his reply dated 23.01.2017 stating therein that the services of the petitioner is purely on temporary basis which may be abolished at any time and the service can be terminated without assigning any reason at any time. The petitioner was engaged on temporary basis on contractual/daily wages basis at a consolidated amount of Rs.10,000/- per month/. The driving license of the petitioner could not be verified till day even after various correspondence to the respective authorities and the matter is still pending for final decision regarding the requirement of further service.

On notice of the writ petition, a written statement dated 23.10.2017 was filed by respondent No. 3 on behalf of respondent Nos 1 to 3 that applications were invited for the requirement of Heavy Vehicle Drivers in Haryana Roadways on Contract/Daily Wages Basis by Director General, State Transport Haryana Chandigarh. The petitioner was selected and was given the offer of appointment as Heavy Vehicle Driver vide memo dated 21.01.2014 at a consolidated amount of Rs.10,000/- per month. In the appointment letter, it was clearly written that the appointment is purely on temporary basis, which may be abolished any time and the service of the petitioner is liable to be terminated without assigning any reason at any time. It is submitted that the license of the petitioner could not be verified

due to non-supplying of information by the Regional Transport Authority,

Faridabad and Transport Authority/respondent No. 4. is responsible for any delay. The petitioner had submitted his license No. 1495/R/03 LA Narnaul and the said license was sent to the Licensing Authority, Narnaul for its verification and the Regional Transport Authority, Narnaul replied that the license of the petitioner has been renewed by their office on the basis of old license No. 973/2000 issued by the Licensing Authority, Yamuna Nagar. Then the office of respondent No. 3 requested the Secretary, Regional Transport Authority, Yamuna Nagar vide letter dated 19.03.2014 regarding verification of the driving license of the petitioner but the office of Regional Transport Authority Yamuna Nagar informed the office of respondent No. 3 that the license in the name of the petitioner has been renewed bearing No. 0973/RTA/YNR/2K and the same has been renewed on the basis of driving license No. 2570/LA/FPJ/97 issued by the Licensing Authority, Firojpur Jhirkha and the office of Transport Authority, Firojpur Jhirkha informed that there is no record with respect of license No. 2570/FPJ with them as the same has already been sent to Regional Transport Authority Faridabad in March, 1998. Thereafter, the office of respondent No. 3 wrote letter dated 27.06.2014 with a request to send the verification report of driving license No. 2570/FPJ issued in the name of the petitioner, but the office of Secretary, Regional Transport Authority Faridabad vide memo dated 09.07.2014 informed the office of respondent No. 3 that due to fire incident which took place on 11.05.2002, the record pertaining to the driving license of the petitioner was burnt along with other record. A DDR No. 15 dated 11.05.2002 pertaining to the fire incident was also got registered.

Learned counsel for the petitioner contends that the petitioner is not at any fault due to any fire incident pertaining to the old record of his driving license of the year 1997, which was prepared by the Licensing Authority, Ferozepur Jhirkha. After the verification of the driving licenses of the petitioner from different authorities, there is no reason with respondent No. 3 to deny equal salary to the petitioner at par with the other co-employee, who joined similar duties along with petitioner.

On the other hand, learned State counsel states that since the genuineness and validity of the driving license of the petitioner has not yet been verified, therefore, the demand of the petitioner claiming equal pay with other employees could not be considered.

After hearing learned counsel for the parties, the present writ petition deserves to be allowed.

It is not in dispute that respondent No. 3 has written letters to various departments from where the license of the petitioner was renewed and all have given answers in positive that the license of the petitioner was renewed but it was renewed on the basis of old license after getting no objection from the earlier authority. All the transport authorities renewed the driving license of the petitioner after getting the NOC from the earlier authorities. Thus, there is no doubt about the genuineness of the driving license of the petitioner. The petitioner cannot be said to be at fault due to any fire incident in the year 2002 pertaining to his license No. 2570/FPJ/97 and other licences. The subsequent renewal of the driving license of the petitioner makes it abundant clear that the original license of the petitioner was genuine and that is why it was renewed from time to time. Further DDR

No. 15 dated 11.05.2002 pertaining to the fire incident was also got registered. The respondent-department cannot give a finding that the original license of the petitioner was fake only on the ground that the record was burnt. The license of the petitioner has to be taken to be a valid one and he is liable to get salary at par with other co-employees.

In view of the discussions made above, the present writ petition is allowed and the respondent-department is directed to give salary of Rs.23384/- to the petitioner at par with other co-employees i.e, who joined the service along with petitioner on the post of Driver. The petitioner be given arrears of salary along with 6 per cent interest w.e.f the date of joining i.e 23.01.2014

(RITU BAHRI)
JUDGE

04.07.2018
G Arora

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>