

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

CWP No.19605 of 2012(O&M)
Decided on:18.11.2019

Harpreet Singh and othersPetitioners

versus

Bhakra Beas Management Board (BBMB) and others
....Respondents

CORAM : HON'BLE MR.JUSTICE ARUN MONGA

Present: Mr.H.K.Brinda, Advocate,
for the petitioners.

Mr.Avinash Kumar, Advocate for
Mr.Kuldeep Tiwari, Advocate
for the respondents

MR.ARUN MONGA, J. (Oral)

1. Petitioners are daily wagers seasonal employees and hired every year from time to time depending upon the seasonal requirement to meet the work exigencies owing to the excessive accumulation of water during the rainy season.

2. It is the petitioners' case that they have been working since the year 1997 from year to year though only for 89 days in a year. Their claim is three-fold as below:

- i). Entitlement of minimum of pay scale and usual allowances on parity with the work charge hired employees of the respondent-Board on the principle of 'equal pay for equal work'.
- ii).Regularisation of their services or alternatively considering them for appointment against vacant posts.
- iii). Direction to the respondents to maintain a seniority list of

the petitioners and invite applications as per seniority every year (the said claim is though not formally pleaded in the petition but has been sought on the basis of the Division Bench Judgement rendered in CWP No.10982 of 2003 dated 20.01.2004 contained at Annexure P-2).

3. Having heard learned counsel for the parties I am of the opinion as per the claim of the petitioners for issuance of direction to maintain a seniority list, the same is squarely covered by the Division Bench Judgement *ibid* wherein his Lordship Mr.H.S.Bedi, J., (as he then was) speaking for this Court observed as below:

“The petitioners are seasonal employees. They are employed only during the rainy season to meet the exigency of excessive water. It is the petitioners case that they have been working on this basis for the last 16 years or so. They have a two fold claim. Firstly, that they are called upon to make applications for appointment every year which should be avoided and secondly that a policy be formulated for adjusting those employees who have worked for years against existing regular posts so that some security of tenure can be given to them.

In the written statement filed by the respondents, these two aspects have not been seriously controverted. We even otherwise find that this prayer seems to be made in the above direction. We think that it would be appropriate for the respondent management to frame a seniority list of seasonal employees and appoint them as per seniority without calling upon them to apply afresh every year. We also feel that (in cases of employees who have been working for long periods), some arrangements should be made to given them some security of tenure or other service benefits as per the decision to taken by the respondent with in a reasonable time.”

4. In view of the aforesaid respondents are directed to frame a seniority list of the seasonal employees appointed by them every year and invite applications as per the seniority without calling upon them to apply afresh every year.

5. As regards the claim of the petitioners seeking minimum of the

pay scale, the same too is no manner *res integra* in view of the Apex Court Judgment rendered in Civil Appeal No.213 of 2013 on October 26, 2016, titled as “**State of Punjab and others vs. Jagjit Singh and others.**” The relevant is reproduced herein below:

“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’ summarized 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 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.

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.”

6. Applying the ratio enunciated by the Hon'ble Supreme Court, the prayer of the petitioners seeking minimum of pay scale is allowed and the respondents are directed that as and when the petitioners are hired depending upon the seasonal requirement they shall be entitled for minimum of pay scale at par other work-charge regularly engaged employees of the respondent-Board for the duration they render their services.

7. Regarding the claim of regularisation the services of petitioners, since they are hired only for 89 days depending upon the exigency owing to the excessive rain/accumulation of water, no case is made out for their regularisation as the nature of requirement itself shows that their services are not required on perennial basis and are merely owing to an exigency. To that extent the prayer of the petitioners is declined.

8. Disposed of in above terms.

November 18, 2019

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**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned:	Yes/No
Whether Reportable :	Yes/No