

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP NO. 11655 of 2018(O&M)
DATE OF DECISION : 09.12.2019

Darshan Kumar & Ors.

... Petitioners

versus

Bhakra Beas Management Board & Anr.

... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Surinder Sharma, Advocate,
for the petitioners.

Mr. T.K. Joshi, Advocate
for respondents.

ARUN MONGA, J. (ORAL)

1. The petitioners herein are seeking issuance of a writ of *mandamus* directing the respondents to pay them emoluments at par with regular engaged government employees holding the same post. It is the case of the petitioners that they are serving the respondents since 1986-87 and after putting in more than 30 years of service, they are getting salary of Rs.7500/- approximately while their counter-parts working on regular basis are getting minimum pay of Rs.24,000/- per month.

2. In the return the respondents have taken a stand that the appointment of the petitioners was for a specific period. When their term was about to be over, they filed CWP No. 17018 of 1998, wherein it was directed that the petitioners be not relieved of their duties. The writ petition *ibid* was ultimately decided in favour of the petitioners and regularization of their services was ordered vide judgment dated 16.01.2002. Said order of learned Single Judge was set aside in the Letter's Patent Appeal filed by the

respondents and the case was remitted. According to respondents, the petitioners continued to work on daily wages only because of stay granted by this Court, whereas there is no work available for the petitioners.

3. I have heard learned counsel for the parties and have gone through the paper-book carefully.

4. The only stand to resist the petition taken by the respondent is that the petitioners though continued in job for the past 30 years, but the same is by virtue of interim orders passed by this Court in an earlier round of litigation instituted by the petitioners. Therefore, the petitioners are not entitled to minimum of the pay scale on the post they are working.

5. The said stand clearly militates against the ratio laid down in the judgment rendered by Hon'ble the Apex Court in **State of Punjab & Ors. Vs. Jagjit Singh & Ors. 2016 AIR (SC) 5176** and on that short account the petitioners are entitled to minimum of pay scales. For ready reference, the relevant part thereof is extracted below:-

“54. There is no room for any doubt, that the principle of ‘equal pay for equal work’ has emerged from an interpretation of different provisions of the Constitution. The principle has been expounded through a large number of judgments rendered by this Court, and constitutes law declared by this Court. The same is binding on all the courts in India, under [Article 141](#) of the Constitution of India. The parameters of the principle, have been summarized by us in paragraph 42 hereinabove. The principle of ‘equal pay for equal work’ has also been extended to temporary employees (differently described as work-charge, daily-wage, casual, ad-hoc, contractual, and the like). The legal position, relating to temporary employees, has been summarized by us, in paragraph 44 hereinabove. The above legal position which has been repeatedly declared, is being reiterated by us, yet again.

55. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work, cannot be paid less than another, who performs the same duties and responsibilities. Certainly not, in a welfare state. Such an action besides being demeaning, strikes at the very foundation of human dignity. Any one, who is compelled to work at a lesser wage, does not do so voluntarily. He does so, to provide food and shelter to his family, at the cost of his self respect and dignity, at the cost of his self worth, and at the cost of his integrity. For he knows, that his dependents would suffer immensely, if he does not accept the lesser wage. Any act, of paying less wages, as compared to others similarly situate, constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.

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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."

6. Even otherwise, the stand of contesting respondents is to deprive the petitioners their meager pay as prescribed in the Minimum Wages Act. Throughout their service career, they had been paid measly amount. They are currently paid an amount of Rs.7500/- per month, which

is less than what has been prescribed in the Minimum Wages Act i.e. little over Rs. 9000/- per month.

7. As a result, writ petition is disposed of holding that the petitioners shall be entitled to minimum of the pay scales on the posts on which they are working for the past 30 years and directing the respondents to grant this benefit to the petitioners. However, their arrears are confined to 38 months prior to the filing of the writ petition, which shall be paid along with interest @ 8% per annum. Let the arrears be calculated and disbursed to them within a period of three months, failing which the respondents shall pay interest thereon @ 15% per month to the petitioners.

8. It is made clear that neither the pendency of the earlier writ petition bearing CWP No. 17018 of 1998 nor the interim orders passed by this Court by virtue of which petitioners continued in service, would come in the way of entitlement of petitioners to seek minimum of pay as long as it is established that they are in uninterrupted service of the respondents since 30 years.

9. Disposed of in above terms.

(ARUN MONGA)
JUDGE

December 09, 2019

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| 1. Whether speaking/ reasoned: | Yes/ No |
| 2. Whether reportable: | Yes/ No |