

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

**CWP NO. 24333 OF 2015
DATE OF DECISION : 08.05.2019**

Chander Bhan

...Petitioner

versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Ram Kumar Chauhan, Advocate,
for the petitioner.

Mr. Abhay Pal Singh, AAG, Punjab.

Mr. Atul Nehra, Advocate,
for respondents No.3 and 4.

ARUN MONGA, J. (ORAL)

1. The conceded stand taken by respondent No.3 in its written statement is that the petitioner is a regular and permanent employee, working as Chowkidar since 1990. It has further been stated in the written statement that the said post is an aided post under the Grant-in-Aid Scheme under Director Public Instructions (Colleges), Punjab.

2. On the other hand, limited prayer of the petitioner in the writ petition is two fold : a) claim for regularization wrongly rejected vide order dated 11.08.2019 (Annexure P-2) and that b) he be granted minimum pay-scale, as is being paid to the similar employees in government colleges, since he is working in a grant-in-aid college.

3. Learned counsel for the petitioner relies on judgment passed by Supreme Court in "*State of Punjab and others v. Jagjit Singh and others*" 2016 (4) SCT 641. Relevant part whereof 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.*

4. Even otherwise, I have perused the reply dated 11.08.2015 (Annexure P-2) given by DAV College, Hoshiarpur through its counsel in response to legal notice dated 01.08.2015 (Annexure P-1) of the petitioner, wherein it is conceded that the petitioner is working as Chowkidar in the college on regular

basis. However, he is being paid consolidated salary instead of minimum pay-scale as claimed by him.

5. As regards claim of regularization, the writ petition is rendered infructuous as it is a conceded position that petitioner is already working on regular basis.

6. In view of the aforesaid, I am of the opinion that once the petitioner's services have been regularized, he is entitled to regular pay-scale and therefore, the respondents are not justified in giving him the consolidated salary which was originally fixed though the same has been enhanced from time to time.

7. In the premise, the respondents are directed to fix the salary of the petitioner at the minimum pay-scale corresponding to the pay-scale of Chowkidar in the government aided colleges with effect from 01.01.2006 with all consequential benefits along with interest @ 8% per annum. However, the consequential pecuniary benefits are restricted to 38 months prior to filing of this writ petition.

8. Let the needful be done within a period of three months from the date of receipt of certified copy of this order.

(ARUN MONGA)
JUDGE

MAY 08, 2019
shalini

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