

Sr. No.219

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

CWP No.23375 of 2017 (O&M)

Date of Decision: 10.09.2019

Rajnish Kumar Sharma

... Petitioner

Versus

Punjab and Sind Bank and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Pankaj Gupta, Advocate,
for the petitioner.

Mr. R.N.Lohan, Advocate,
for the respondents.

ARUN MONGA, J.

Petitioner herein, *inter alia*, seeks issuance of a writ in the nature of mandamus directing the respondents to pay minimum of the pay scale along with arrears of salary to him who is working as temporary Peon with the respondent-Punjab and Sind Bank uninterruptedly since year 2001.

2. Facts, shorn off unnecessarily details, succinctly are that the petitioner having been appointed as temporary Peon in the year, 2001 continues to discharge his duties as such on daily wage basis @ Rs.250/- per day as borne out from Annexure P-7. It is stated that in the branches of the Bank, peons are being appointed at the level of Branch Manager on temporary basis and thus, there is zero strength of regular peons on the bank rolls.

3. Grievance of the petitioner is limited to the extent that

he is not being paid minimum of the pay scale as granted to number of similarly situated temporary peons. He is not seeking any regularization and/or mandamus to appoint him on permanent basis.

4. On 21.01.2019, in course of hearing of the petition, following order was passed:-

“Learned counsel for the petitioner states that the petitioner has been working as 'Temporary Peon' in respondent No.1-Punjab and Sind Bank Branch at Khanna.

The said statement of learned counsel for the petitioner is seriously controverted by the learned counsel for the respondent-Bank on the ground that service of the petitioner was engaged intermittently only on daily wage basis from time to time and he has never been employed by the Bank as contended by learned counsel for the petitioner.

Learned counsel for the petitioner states that petitioner has made a specific statement in para 11 of the writ petition that he is the only Peon working in the Branch and, therefore, the stand of the learned counsel for the respondent-Bank is based on the wrong instructions.

Be that as it may, respondent No.1-Bank is directed to file an affidavit as to the strength of total staff which has been deployed in the Khanna Branch.

Adjourned to 04.03.2019.”

5. Pursuant to the above, an additional affidavit dated 29.03.2019 has been filed.

6. A conjoint perusal of the return filed to the writ petition and the additional affidavit reflects that it is not disputed that

petitioner's services have been hired on temporary basis by the Bank. It is stated/deposed by the Bank that petitioner was merely a casual labour on daily basis for intermittent period prior to 17.09.2014. His services were engaged by the Branch Manager on daily basis for the work done by him and he was not required to mark any presence in the attendance register. It is further stated that after 17.09.2014, an agreement (Annexure P-10) was executed between the Bank and the petitioner, whereby it was agreed that petitioner shall work on commission basis and would be paid fee and commission as per the terms of the agreement.

7. The said agreement was to be valid initially for a period of one year and it was deemed to be extended automatically for further period unless terminated by any of the parties. The said agreement is stated to have been terminated by the Bank on 11.12.2017 and in the premise, dismissal of the writ petition has been sought on the ground that the petitioner was merely an agent of the Bank after 17.09.2014 and he has misled the Court by stating that he was in employment of the Bank.

8. I have heard learned counsel for the parties and I am of the view that to the limited extent of petitioner's seeking minimum of the pay scales for the period he was in temporary employment as a peon with the Bank, writ petition deserves to be allowed.

9. Reference may be had to a judgment of Hon'ble Supreme Court of India in case of ***Sabha Shanker Dube Vs. Divisional Forest Officer, 2018 (14) Scale 765***. The relevant part of the judgment is reproduced as under:-

10. *The issue that was considered by this Court in **Jagjit Singh** (supra) is whether temporary employees (daily wage employees, ad hoc appointees, employees appointed on casual basis, contractual employees and likewise) are entitled to the minimum of the regular pay scales on account of their performing the same duties which are discharged by those engaged on regular basis against the sanctioned posts. After considering several judgments including the judgments of this Court in **Tilak Raj** (supra) and **Surjit Singh** (supra), this Court held that temporary employees are entitled to draw wages at the minimum of the pay scales which are applicable to the regular employees holding the same post.*

11. *In view of the judgment in **Jagjit Singh** (supra), we are unable to uphold the view of the High Court that the Appellants-herein are not entitled to be paid the minimum of the pay sales. We are not called upon to adjudicate on the rights of the Appellants relating to the regularization of their services. We are concerned only with the principle laid down by this Court initially in **Putti Lal** (supra) relating to persons who are similarly situated to the Appellants and later affirmed in **Jagjit Singh** (supra) that temporary employees are entitled to minimum of the pay scales as long as they continue in service.”*

10. The Bank in its affidavit dated 27.02.2019, has deposed that there is one Senior Manager, four Officers, one single window operator and one part time sweeper in the branch office at Khanna. As such, the Bank itself admits that there is no regular peon in the branch at Khanna. The work of peon is taken from the petitioner, who is working as temporary peon on daily wages since the year 2001.

11. What thus emerges is an admitted position that Bank had hired the services of petitioner as temporary peon but instead of paying minimum of the pay scale has been throughout paying him on daily wages, which is in violation of Articles 14 and 39 (d) of the Constitution of India and is nothing but a mere exploitation of the poor and hapless.

12. Petitioner is entitled to minimum of the pay scale with effect from the date of his joining till date as his services were continued as Peon vide order dated 23.01.2018, passed by this Court. However, the arrears of salary are confined to 38 months prior to filing of the writ petition along with interest @ 6% per annum.

13. Let the needful be done within a period of 3 months from the date of receipt of a certified copy of this order.

14. Writ petition is allowed in the above terms.

10.09.2019

vandana

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No