

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

CWP 9167 of 2020 (O&M)

Date of Decision: October 30, 2020

Baljit SinghPetitioner
Versus
State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present : Mr. Mahavir Singh, Advocate
for the petitioner.

Ms. Harsh Rekha Kapoor, AAG, Haryana.

FATEH DEEP SINGH, J. (Oral)

The matter has been taken up through video-conferencing on account of outbreak of pandemic COVID-19.

Petitioner Baljit Singh was engaged on 06.09.2002 on contractual basis to work on the operations for the computer by the respondents in the Department of Public Health Engineering and was supposed to carry on the functioning of Data Entry Operator. The petitioner claims that he has been

serving the respondents without any break and his nomenclature was changed in November 2013 to that of a clerk. Aggrieved over the policy of the respondents not to enhance his remuneration in spite of 18 years having elapsed had come up in this civil writ petition, seeking the refuge under Articles 226/227 of the Constitution of India by way of writ of *mandamus* directing the respondents to grant due remuneration for **“equal pay equal work”** as at par with regular employees/workers.

The respondents in their joint reply besides usual preliminary objections of non-maintainability of the petition have also concealed material facts. On merits, the respondents took plea admitting that the petitioner was initially engaged on 17.10.2002 on contractual basis. Further reiterating that on 26.09.2006 he was engaged for computer typing work on monthly basis. Thereby, the respondents denied that the petitioner was working on a regular post and termed his appointment purely as term appointment and denied that he was either engaged on contractual basis and, therefore, could not even avail the policy for regularization of the services of Group B, C and D appointees. The respondents, thus, denied the contentions of the petitioner.

Upon hearing Shri Mahavir Singh, Ms. Harsh Rekha Kapoor, AAG, Haryana and perusal of records.

It is the own stand of the petitioner that he was appointed on temporary basis and since 26.09.2006 he was given term appointment on monthly basis. The same has not been refuted by the petitioner through rejoinder/replication. More so, as per the agreement of the petitioner with the respondents Annexure R-1, he was given only engagement for not exceeding 06 months and his engagement was only on term appointment with remuneration as applicable under the Minimum Wages Act, 1948 (hereinafter to be referred as '**the Act**'). To the specific query of the Court counsel for the petitioner could not refute if he has been denied the wages under the Act. Though much reliance has sought to be placed on **State of Punjab and others Vs. Jagjit Singh and others Civil Appeal No. 213 of 2013**) decided on 26.10.2016 to hammer home the point that the principle of "**equal pay for equal work**" is applicable to the case of the petitioner as well. It is nowhere illustrated on record by the petitioner that for claiming this equal pay with whom he has been seeking equation as to performing of work. In the cited ratio, the Apex Court has clearly laid down that for seeking such a parity it needs to be the established fact that the performance of the work of the petitioner besides being functionally equal is of same equality and sensitivity and have held that the onus of

proving such a parity is upon the petitioner and which the petitioner has failed to illustrate by any means. The respondents have been clearly following the mandate of the Act in paying remuneration to the petitioner and which as per the own letter relied upon by the petitioner Annexure P-2 issued by respondent No.4-The Engineer-in-Chief, Haryana, Public Health Engineering Department, Panchkula was on purely monthly basis. More so, to the stand of the petitioner of “equal pay equal work” the case of term appointees were not covered in the policy of the State of Haryana. Thus, the petitioner does not have a legitimate claim to seek any relief as prayed for in this petition.

The petition being hopelessly without any merits stands dismissed.

October 30, 2020
amit rana

(FATEH DEEP SINGH)
JUDGE

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