

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CWP-4878-2002****Date of decision: 24.11.2022**

Dal Chand

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:** Ms. Shaveta Sanghi, Advocate,
For the petitioner.

Mr. R.D.Sharma, DAG, Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of certiorari for quashing order dated 18.10.2001 (Annexure P-5) vide which representation of the petitioner seeking regular pay at par with regular employees from the date of his initial appointment as JCB Operator was rejected.

2. At the very outset, on a Court query, given the sheer lapse of time of more than 20 years when petitioner was working on daily wages, his services were discontinued and in the absence of there being violation of any statutory right and/or constitutional right to seek enforcement of the continuation of work on daily wages, learned counsel for the petitioner is unable to controvert the position in law. Confronted, however, she submits that to the extent that petitioner has rendered his services up to the month of March 2001, he is entitled to pay but nothing was paid after December 2000. Position though appears to be otherwise, as is borne out from the corresponding response in para 7 of the return filed by the respondents wherein it is unequivocally stated that petitioner did not render any work after December, 2000. Qua the same, learned counsel for the petitioner points out that a specific record of the muster roll for the months of January 2001 to March 2001 was

furnished along with replication contained at Annexures P-10 to P-12 which has though not been controverted. I am though unable to persuade myself to allow the claim of the petitioner simply on the basis of a photocopy of the muster rolls (Annexures P-10 to P-12) on the ground that same is deemed to be admitted in the absence of any further affidavit. Respondents were not under any legal obligation to controvert the same once replication had been filed. It was open for the petitioner to file such Annexures along with the petition so as to give an opportunity to the respondents to controvert the same in the return filed by them.

3. At this stage, it is highly unlikely that the muster rolls for the year 2000-2001 would have been maintained after 20 years.

4. Be that as it may, since writ petition is of the year 2002 and petitioner is a poor person, it is expected of the respondents if they are able to ascertain the claim of the petitioner contained at Annexures P-10 to P-12 upon verification from the office record and from officials who at the relevant time had worked together with the petitioner and may still be in service, claim of the petitioner be processed and his wages for the months of January 2001 to March 2001 be paid.

Needful exercise be carried out within a period of 3 months.

Disposed of accordingly.

(ARUN MONGA)
JUDGE

November 24, 2022

Vandana

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No