

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

Date of decision: September 06, 2022

1. CWP-13201-2019 (O&M)

Manoj Kumar and others

.....Petitioners

versus

State of Haryana and another

.....Respondents

2. CWP-12693-2021(O&M)

Prem Chand and others

.....Petitioners

versus

State of Haryana and another

.....Respondents

3. CWP-12733-2021 (O&M)

Krishan Kumar and others

.....Petitioners

versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Ravinder Malik (Ravi), Advocate for the petitioner(s).

Mr. R.K.S. Brar, Additional AG Haryana.

ARUN MONGA, J. (ORAL)

Vide this common order, bunch of above-mentioned three writ petitions are being disposed of, since not only the facts but the law points and the issues raised therein are also similar. For brevity, recitals are taken from CWP No.13201-2019.

2. Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus directing respondents to grant arrears of minimum of the pay-

scales of the posts manned by the petitioners granted to them by respondents vide order dated 25.07.2018 (Annexure P-9) w.e.f. the date of passing of Apex Court judgment rendered in the **State of Punjab versus Jagjit Singh and others**, reported as **2016 (4) SCT 641**.

2. Pledged case is that petitioners were appointed on their respective posts by the respondents after following the proper procedure and are working for the last so many years ranging 15-20 years. Petitioners are performing similar duties as are being performed by regular counterparts working in the Department, yet as a matter of fact they are being discriminated in the matter of pay-scales as they are being paid very less wages/ salary. Learned counsel for the petitioners relies on **Jagjit Singh's case (supra)** to support his contentions.

3. I have heard rival contentions of learned counsel for the parties and perused the record.

4. Similar controversy as involved herein has already been adjudicated by me on previous occasion in somewhat similar circumstances. I need not labour all over again. Reference in this regard may be had to my judgment/ order dated 21.03.2022 rendered in **CWP-20619-2017** titled **Suresh Kumar and another versus State of Haryana and others**, in the following manner:-

“2. Petitioners were initially engaged on limited term on monthly basis on consolidated remuneration of Rs.3,000/-per month in the year 2015 with the following terms and conditions:-

- “I. The services offered to you is purely temporary and only against stop gap arrangement.*
- II. No TA/DA for joining the above post will be given.*
- III. You shall be liable to work anywhere in Haryana on the installations falling within Public Health Department.*

- IV. No allowance of any kind and rent free accommodation etc. shall be admissible.
- V. Your services can be terminated at any time without notice.
- VI. You must be in sound mental and physical Health.”

3. In course of arguments, learned State counsel opposed the petition on the ground that ratio of Jagjit Singh’s case (*supra*) is not applicable to the case of the petitioners as they were engaged on temporary basis and not against the vacant sanctioned posts. Therefore, they are not entitled to the pay-scale meant for the post of Pump Attendants. Since the petitioners have confined their claim for payment of salaries in terms of minimum of the pay-scale and not on parity with the other Pump Attendants, therefore, applicability of the judgment *ibid* is not of much consequence in the instant writ proceedings.

4. The unequivocal stand taken in the return filed to the written statement in para-2 of the preliminary submissions is as below:-

“2. That, the Government of Haryana has circulated instructions vide No.16/36/2016-3GS-II dated 03.11.2017, whereby, the Government has decided as under:-

I. The principle of ‘equal pay for equal work’ shall be applicable to the contractual employees subject to application of parameters of the principle of ‘equal pay equal work’ as summarized in para 42 of the judgment. In respect of contractual pay, these employees shall be entitled to the minimum of the pay-scale of the categories to which they belong but would not be entitled to any of the allowances attached to the post.

II. ‘Equal pay equal work’ principle shall be initially applied to employees engaged under outsourcing policy-II w.e.f. 01.11.2017.

The copy of these instructions dated 03.11.2017 is attached as Annexure R-2. Further, as per Part-II of the outsourcing policy dated 06.04.2015 the persons are engaged on contract basis against sanctioned vacant posts. Copy of outsourcing policy dated 06.04.2015 is attached as Annexure R-3. As stated above the petitioners were engaged on term appointment purely on temporary basis and not against the sanctioned post, therefore, the Government instructions dated 03.11.2017 (Annexure R-2) are not applicable to the petitioners. As such, the petitioners are not entitled to the benefit of equal pay and equal work policy.”

In view of the aforesaid, writ petition is disposed of with a direction to the respondents to disburse the salary of the

petitioners w.e.f. 01.11.2017 in terms of its own administrative instructions dated 03.11.2017, which have been relied upon as per the stand taken in the written statement. The respondents are held bound by the same and are directed to pass administrative orders in terms thereof.

5. Petitioners' arrears be calculated and paid w.e.f. 01.11.2017 along with interest @ 6% per annum. Needful be done within a period of 3 months from today."

5. Apart from aforesaid, my opinion is also re-endorsed by a Division Bench of this Court in **LPA-1598-2019** titled **State of Haryana and another versus Varun Gupta**, wherein speaking for this Court, G.S. Sandhawlia, J. has opined as below, on 15.03.2022:

"However, in LPA-674-2021, the Learned Single Judge has apparently issued directions that the petitioner would be entitled for the minimum Pay-Scales from the date of joining which was 21.08.2017 (Annexure P-3). As noticed, the instructions were issued for payment from a specific date and once the State has taken a categorical decision, the entitlement would be from 01.11.2017 and not from the date of joining and even the claim of the writ petitioner was on the basis of the instructions dated 03.11.2017. Similar argument has been raised that appointment of the respondent was as Assistant who was under the State Resource Centre for Women on a consolidated salary of Rs.15,000/- per month. Therefore, the said instructions would not be applicable, is without any basis as nothing could be shown from the said instructions that the persons appointed under the said scheme would not be entitled for the benefits of the judgment passed in Jagjit Singh (supra) as per instructions dated 03.11.2017 as per the reasoning given above. Resultantly, LPA-674-2021 is allowed, to the extent that the amount payable would be from 01.11.2017."

6. In the aforesaid premise, I see no reason as to why the petitioners be not accorded the benefit on parity with ones mentioned in CWP-20619-2017 as well as appellant in LPA-1598-2019.

7. Writ petitions are accordingly disposed of with the direction to the competent authority of the respondents to accord the benefit of minimum of the pay-scales as per instructions dated 03.11.2017 w.e.f. the date said instructions were issued.

8. Needful be done within a period of 3 weeks from today.
9. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

September 06, 2022

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Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No