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

**CWP-13090-2017 (O&M)
Date of Decision: 08.12.2022**

Balraj Singh and others

....Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. A.K. Singh Goyat, Advocate
for the petitioners.

Mr. Saurabh Mohunta, D.A.G., Haryana.

ARUN MONGA, J. (ORAL)

Petition herein, *inter alia*, is for issuance of a writ in the nature of Mandamus directing the respondents to fix the pay/wages of the petitioners, who are working as a Canal Patwaris in District Sirsa on D.C. rates, issued by the Deputy Commissioner, Sirsa vide Notification dated 21.10.2015 (Annexure P-1, and parity with Notification dated 11.05.2017 (Annexure P-2), whereby wages of Canal Patwaris, who are working in District Hisar, were fixed.

2. Having gone through the record and after hearing the rival contentions of learned counsel for the parties, I am of the view that there is no irregularity in fixing the wages of the petitioners. Needless to say, that petitioners are working as Canal Patwaris on contractual basis under the supervision and control of Haryana Irrigation & Water Resources Department and are bound by the determination of D.C. rates as applicable in District Sirsa. After the directions of this Court, a speaking order (Annexure R-1) was also passed by the X.EN., which reads thus:

“While hearing the CWP No 13090 of 2017 titled Balraj Singh and ors Vs State of Haryana and ors, the following directions have been passed by the Hon'ble Punjab & Haryana High Court on 02.06.2017:-

"Short question for consideration in the present petition is whether the petitioners are entitled for fixation of pay with reference to notification dated 11.05.2017 or not?

Notice of motion.

On the asking of the court, Mr. R.K. Doon, AAG, Haryana who is present in the court, accepts notice on behalf of the official respondents.

Learned counsel for the petitioner is directed to furnish 3 sets of writ papers to learned State counsel during the course of the day.

Concerned respondent is hereby directed to pass a speaking order and place it on record on the next date of hearing.

List this matter on 11.10.2017.”

In compliance of the said directions passed by the Hon'ble High Court, the relevant records available on file has been examined. After careful consideration of the relevant records, it has been found/observed that the rates of the pay/wages for the contingent paid employees of various departments in the district are decided and fixed by the respective Deputy Commissioners every year and after considering all the aspects/factors i.e. instructions contained in the Haryana Government, General Administration Department Circular No.43/5/2001-1GSI dated 16.02.2009, No. 43/5/2001-3GSII dated 02.06.2014 and Labour Department, Haryana notification dated 21.10.2015 (Section 5 (2) of Minimum Wages Act) etc.and such rates, as proposed by the Committee comprising of City Magistrate, Sirsa; District Development & Panchayats Officer, Sirsa; Labour Officer, Sirsa and Executive Engineer, Panchayati Raj, Sirsa on dated 12.05.2016, for District Sirsa for the year 2016-17 to be applicable for the period from 01.04..2016 to 31.03.2017 were decided/fixed and notified by the Deputy Commissioner, Sirsa and issued vide Endst. No.7153-7253/DN dated 15.06.2016. Fixing of D.C. rates by the Deputy Commissioners have been continuing since pre-independence as is evident from a Circular issued by the Secretary to Government, Punjab, Finance Department vide No.7004-F-41/60572(Fin. Genl.) dated 1st November, 1941. These D.C. rates do vary from district to district depending upon labour conditions, cost of living standards as compared to other districts and availability of labour.

The petitioners are working in BWS Circle, Sirsa (Except Sr. No. 2&4). However, as far as question of payment of the pay/wages to the petitioners who claims to have worked as Canal Patwaris in district Sirsa on D.C rates of Rs. 16000/- and further claims to grant them the pay/wages equivalent to the Canal Patwaris who are

working in district Hisar at the rate of Rs.22542/- is concerned, it is submitted that all the petitioner are working as per order of Hon'ble High Court vide its order dated 28.02.2014 in CWP No 26130 of 2013 and CWP No. 90714 of 2013 dated 28.02.2014 respectively and payment is made accordingly as per rate fixed by D.C. Sirsa vide order dated 15.06.2017.

Hence, in view of above, the rates fixed for 2016-2017 were being paid to applicant as per the rate fixed by D.C., Sirsa, which are justified.”

3. An unequivocal deposition has been made by the X.EN that all the Canal Patwaris in the District have been paid as per the rates fixed by the Deputy Commissioner, Sirsa and there is no discrimination *qua* them. Had it been a case that in the same District some Canal Patwaris are getting higher wages, then perhaps the argument of learned counsel for the petitioner would have been acceptable but to accept that as Canal Patwaris of some other District are getting higher wages, therefore, the one in District Sirsa should also get the same wages, is not legally sustainable. The wages of such employees in all the Districts of Haryana are different as such wages are fixed by the Deputy Commissioner of the concerned District, taking into consideration the cost of living standards and location of the District concerned and other relevant factors. Illustratively, the cost of living in District Gurugram may be much higher, availability of labour may be lower and therefore the employees working in District Sirsa or any other District cannot claim parity with that District.

4. Neither any affidavit nor replication has been filed by the petitioners to controvert the aforesaid deposition made by the X.EN and factual position, as mentioned above, has remained uncontroverted.

5. The argument of learned counsel for the petitioners in fact if accepted, would amount to rendering the D.C. rates in the District a complete nullity, as the same would result in paying higher than the D.C. rates to the petitioners, which cannot be the import of the notification dated 03.11.2017,

copy of which is tendered in course of hearing by learned counsel for petitioners and taken on record as Annexure ‘A’. The said notification (Annexure ‘A’) was addressed by the Chief Secretary to all the Deputy Commissioners regarding equal pay for equal work in respect of specified categories of employees. However, the same is the direction to the Deputy Commissioners *qua* application of equal pay for equal work in their respective District and reliance on the same is totally misplaced.

- 6. In the premise, the petition is dismissed.
- 7. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

December 08, 2022
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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No