

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

CWP-20619-2017

Date of decision: March 21, 2022

Suresh Kumar and another

...Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

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

Mr. Saurabh Mohunta, DAG Haryana.

(Presence marked through Video-Conference).

ARUN MONGA, J. (ORAL)

Grievance of the petitioners, who were appointed initially on daily wages as Class-IV employees in the office of Executive Engineer, Public Health Engineering Division, Gurugram, District Gurugram is *qua* non-grant of minimum of the pay-scales in the category in which they belong, alleging that the same is not only in violation of the Apex Court judgment rendered in the **State of Punjab versus Jagjit Singh and others, reported as 2016 (4) SCT 641**, but also violative of administrative instructions dated 03.11.2017 issued by the State of Haryana.

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.

(ARUN MONGA)
JUDGE

March 21, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No