

**CWP-20363-2013**

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**2023:PHHC:152636**

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

**CWP-20363-2013**

**Date of decision : 30.11.2023**

**Amritpal Singh**

**...Petitioner**

**Vs.**

**Punjab State Warehousing Corporation,  
Chandigarh**

**...Respondent**

**CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Sharwan Sehgal, Advocate for the petitioner.  
Mr. Vikas Singh, Advocate for the respondent.

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**DEEPAK MANCHANDA, J.(Oral)**

1. The present petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of mandamus for directing the respondent to regularize the service of the petitioner as Safai Sewak and pay him the regular pay scale and the petitioner may be paid minimum pay scale for the post of Safai Sewak till his service is regularized.

2. The factual matrix of the present case is that the petitioner joined the service of Punjab State Warehousing Corporation on Daily Wage Part Time basis in the year 1987. The petitioner was appointed for full time basis as Safai Sewak w.e.f. 01.09.1997 in the Labour Court, Ludhiana. On 01.03.2004, the services of the petitioner were terminated. Thereafter, the petitioner raised an Industrial Dispute and his case was referred to the Presiding Officer, Labour Court, Ludhiana. Vide Award dated 15.09.2010 (Annexure P-1) passed by Industrial Tribunal-cum-Labour Court, Ludhiana, a settlement was arrived due to which the petitioner was reinstated on 01.10.2010 with continuity of service

and with 20% back wages and the petitioner submitted his joining report on 01.10.2010 (Annexure P-2) and he was allowed to join duty and is continuously working with the respondent till today.

3. Learned counsel for the petitioner submits that the petitioner became entitled for regularization of service in the regular pay scale as Safai Sewak as he continuously worked in the office of respondent-department since 01.09.1997 i.e.more than 15 years of service. Learned counsel further submits that the petitioner had served a legal notice 22.10.2012 (Annexure P-5) to the respondent to regularize his service and for payment of arrears. However, neither the petitioner nor his counsel received any reply nor needful has been done.

4. Learned counsel for the respondent submits that in view of the settled proposition of law in “**State of Karnataka Vs. Uma Devi**”, 2006 (3) **SLR 1**, petitioner is not entitled to regularization of his services. He also submitted that petitioner has relied upon instructions dated 15.12.2006 (Annexure P-3), but same is not applicable to the case of the petitioner as he does not fall within the ambit of the said instructions. It is also argued by learned counsel for the respondent that petitioner is working as full time employee since 01.09.1997 and as per instructions dated 15.12.2006, an employee should have ten years of service to his credit as on 10.04.2006 without intervention of the orders of the Court and that too against duly sanctioned post, whereas the petitioner did not complete ten years of service as required under the policy on 10.04.2006. It is also submitted that the petitioner approached the Industrial Tribunal and as per award, he was reinstated on 01.10.2010 with continuity of service and with 20% back wages. He refers to

the terms of the policy which is as follows:-

*“The employees should have worked for not less than 10(ten) years as on 10.04.2006 without the intervention of the orders of the Courts or Tribunals against duly sanctioned posts.”*

5. Learned counsel for the respondent also refers to the stand taken by the petitioner with regard to Sukhdev Singh, who was initially appointed on 31.03.1989 on ad hoc basis as helper and joined duty on 25.04.1989, wherein he continue in service and later on vide order dated 12.01.1990, the services of said Sukhdev Singh was regularized but later on he died on 07.02.2010. Thus, the case of the Sukhdev Singh is not at all similar to the petitioner, who admittedly joined in the year 1989 and could not be said to be junior to the petitioner.

6. Faced with the stand taken by learned counsel for the respondent, learned counsel for the petitioner confines himself to the limited prayer for granting the minimum pay-scale as petitioner is continuously working with the respondent since 2010 till date, who is entitled for minimum pay scale and does not press for regularization of services.

7. However, the continuity of service since 2010 has also not been disputed by learned counsel for the respondent.

8. I have heard learned counsel for the parties and have gone through the case file carefully.

9. Since the petitioner has confined himself to the limited prayer for granting minimum pay-scale on the ground that he has been continuously working since 2010 for more than 13 years, his claim for granting minimum pay scale is tenable in the light of the settled proposition of law as held by the

Hon'ble Apex Court in the case of "*State of Punjab Vs. Jagjeet Singh*", 2017

(1) SCC 148. The relevant paragraph regarding principle of equal pay for equal work and observed as under:-

*"57. There is no room for any doubt, that the principle of 'equal pay for equal work' has emerged from an interpretation of different provisions of the Constitution. The principle has been expounded through a large number of judgments rendered by this Court, and constitutes law declared by this Court. The same is binding on all the courts in India, under [Article 141](#) of the Constitution of India. The parameters of the principle, have been summarized by us in paragraph 42 hereinabove. The principle of 'equal pay for equal work' has also been extended to temporary employees (differently described as work-charge, daily-wage, casual, ad-hoc, contractual, and the like). The legal position, relating to temporary employees, has been summarized by us, in paragraph 44 hereinabove. The above legal position which has been repeatedly declared, is being reiterated by us, yet again.*

*58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work, cannot be paid less than another, who performs the same duties and responsibilities. Certainly not, in a welfare state. Such an action besides being demeaning, strikes at the very foundation of human dignity. Any one, who is compelled to work at a lesser wage, does not do so voluntarily. He does so, to provide food and shelter to his family, at the cost of his self respect and dignity, at the cost of his self worth, and at the cost of his integrity. For he knows, that his dependents would suffer immensely, if he does not accept the lesser wage. Any act, of paying less wages, as compared to others similarly situate, constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.*

*60. Having traversed the legal parameters with reference to the application of the principle of 'equal pay for equal work', in relation to temporary employees (daily-wage employees, ad-hoc appointees, employees appointed on casual basis, contractual employees and the like), the sole factor that requires our determination is, whether the concerned employees (before this Court), were rendering similar duties and responsibilities, as were being discharged by regular employees, holding the same/corresponding posts. This exercise would require the application of the parameters of the principle of 'equal pay for equal work' summarized by us in paragraph 42 above. However, insofar as the instant aspect of the matter is concerned, it is not difficult for us to record the factual position. We say so, because it was fairly acknowledged by the learned counsel representing the State of Punjab, that all the temporary employees in the present bunch of appeals, were appointed against posts which were also available in the regular cadre/establishment. It was also accepted, that during the course of their employment, the concerned temporary employees were being randomly deputed to discharge duties and responsibilities, which at some point in time, were assigned to regular employees. Likewise, regular employees holding substantive posts, were also posted to discharge the same work, which was assigned to temporary employees, from time to time. There is, therefore, no room for any*

doubt, that the duties and responsibilities discharged by the temporary employees in the present set of appeals, were the same as were being discharged by regular employees. It is not the case of the appellants, that the respondent-employees did not possess the qualifications prescribed for appointment on regular basis. Furthermore, it is not the case of the State, that any of the temporary employees would not be entitled to pay parity, on any of the principles summarized by us in paragraph 42 hereinabove. There can be no doubt, that the principle of 'equal pay for equal work' would be applicable to all the concerned temporary employees, so as to vest in them the right to claim wages, at par with the minimum of the pay-scale of regularly engaged Government employees, holding the same post.

61. In view of the position expressed by us in the foregoing paragraph, we have no hesitation in holding, that all the concerned temporary employees, in the present bunch of cases, would be entitled to draw wages at the minimum of the pay-scale (- at the lowest grade, in the regular pay- scale), extended to regular employees, holding the same post."

10. The said view point has also been endorsed by Hon'ble Apex Court in the judgment rendered in "**Sabha Shanker Dube Vs. Divisional Forest Officer & others**", 2019 (1) S.C.T.46 and held as under:-

"10. The issue that was considered by this Court in [Jagjit Singh](#) (supra) is whether temporary employees (daily wage employees, ad hoc appointees, employees appointed on casual basis, contractual employees and likewise) are entitled to the minimum of the regular pay scales on account of their performing the same duties which are discharged by those engaged on regular basis against the sanctioned posts. After considering several judgments including the judgments of this Court in [Tilak Raj](#) (supra) and [Surjit Singh](#) (supra), this Court held that temporary employees are entitled to draw wages at the minimum of the pay scales which are applicable to the regular employees holding the same post.

11. In view of the judgment in [Jagjit Singh](#) (supra), we are unable to uphold the view of the High Court that the Appellants-herein are not entitled to be paid the minimum of the pay sales. We are not called upon to adjudicate on the rights of the Appellants relating to the regularization of their services. We are concerned only with the principle [laid down by](#) this Court initially in [Putti Lal](#) (supra) relating to persons who are similarly situated to the Appellants and later affirmed in [Jagjit Singh](#) (supra) that temporary employees are entitled to minimum of the pay scales as long as they continue in service."

11. On the strength of the aforesaid facts and circumstances, as well as law laid down by Apex Court, the petitioner is entitled to minimum pay-scale as the petitioner cannot be deprived of from the benefit of the same. In conspectus of judgments discussed above and in the aforesaid circumstances, where petitioner has been appointed and is continuously discharging his duties commensurate with regularly appointed persons, who is entitled to be paid the same wages in accordance with the provisions of equal pay for equal work and also the fact that the petitioner has been working for substantially long length of time, this Court is of the view that petitioner is entitled for being granting minimum pay-scale as is being granted to regular employees.

12. In view of the above, the writ petition is allowed. The respondent/corporation is directed to pass fresh orders granting minimum pay-scale to the petitioner, which would be allowed w.e.f. today i.e. 30.11.2023 prospectively, preferably within a period of four weeks from the date of receipt of certified copy of this order.

(DEEPAK MANCHANDA)  
JUDGE

30.11.2023  
nisha-ii/vanita

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|-----------------------------|-----|----|
| Whether speaking/reasoned : | Yes | No |
| Whether Reportable :        | Yes | No |