

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9317 of 2018 (O&M)
Date of decision: 03.03.2023

Gaganpreet Singh and others

..Petitioners

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. H.C.Arora, Advocate, for the petitioners.

Mr. R.S.Pandher, Sr. DAG, Punjab

ANIL KSHETARPAL, J(Oral)

1. The petitioners pray for the issuance of a writ in the nature of mandamus to direct the respondents to treat them as full-time lecturers and pay them salary at the minimum of the pay scale of the post of Lecturer.

2. Though, a copy of the reply is not a part of the paper book, however, during the course of hearing, the learned counsel representing the State of Punjab has produced a photocopy of the reply which is taken on record.

3. It has been stated that the petitioners are working as part time lecturers in various subjects in different Government Polytechnic Colleges/Institutions under the Department of Technical Education, Punjab. They were engaged by the respective Principals on hourly basis without any advertisement or public notice. They are not being given the duties which are being given to the regular lecturers such as being incharge of laboratories, maintenance of laboratories, maintaining stock register of laboratories, doing scholarship work, post matric scholarship work and work regarding college, conducting State level games, Youth Festival, exercising

powers of Drawing and Disbursing Officer and doing work relating to paper sending etc. It has also been highlighted that the regular lecturers are bound to stay and perform their duties from 9.00 a.m. to 5.00 p.m., whereas, the part time lecturers can come to the college at the time when their lecture period starts and leave the college after finishing the work.

4. The learned counsel representing the petitioner relies upon the judgment passed in **Vijay Kumar and others vs. State of Punjab and others,** (Civil Appeal No.3760 to 3764 of 1992, decided on 10.09.1992).

5. This court has considered the submissions and carefully read the judgment.

6. The aforesaid judgment has been delivered on the principles of equal pay for equal work. While dealing with the aforesaid principles, the Hon'ble Supreme Court in the **State of Bihar vs. Bihar Secondary Teachers Struggle Committee, Munger and others (2019) 18 SCC 301** has laid down the following tests to be considered by the Court while determining the applicability of the doctrine of "Equal Pay for Equal Work" in any particular case. The said tests are extracted as under:-

"96. Analysis of the decisions referred to above shows that this Court has accepted following limitations or qualifications to the applicability of the doctrine of 'equal pay for equal work':-

96.1) The doctrine of 'equal pay for equal work' is not an abstract doctrine.

96.2) The principle of 'equal pay for equal work' has no mechanical application in every case.

96.3) The very fact that the person has not gone through the process of recruitment may itself, in certain cases, makes a difference.

96.4) The application of the principle of 'equal pay for equal work' requires consideration of various dimensions of a given job.

96.5) *Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere.*

96.6) *Granting pay scales is a purely executive function and hence the court should not interfere with the same. It may have a cascading effect creating all kinds of problems for the Government and authorities.*

96.7) *Equation of posts and salary is a complex matter which should be left to an expert body.*

96.8) *Granting of pay parity by the court may result in a cascading effect and reaction which can have adverse consequences.*

96.9) *Before entertaining and accepting the claim based on the principle of equal pay for equal work, the Court must consider the factors like the source and mode of recruitment/appointment.*

96.10) *In a given case, mode of selection may be considered as one of the factors which may make a difference.”*

7. As already noticed, the petitioners were appointed without issuing any recruitment notice in order to give opportunity to others to apply. In substance, the petitioners are back door entrants. Moreover, they are being paid as per their contract. In view of the subsequent judgment passed in **State of Bihar's case (supra)**, it would not be appropriate to follow the judgment passed in **Vijay Kumar 's case(supra)**.

8. Hence, dismissed.

9. All the pending miscellaneous applications, if any, are also disposed of.

March 03, 2023

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*