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2023:PHHC:152669

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

CWP-9753-2018

Date of decision : 30.11.2023

Jodha Lal and others

....Petitioners

Vs.

**Pepsu Road Transport Corporation
and another**

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Harinder Sharma, Advocate
for the petitioners.

Mr. Anupam Singla, Advocate
for the respondents.

DEEPAK MANCHANDA, J.

This writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of mandamus directing the respondents to pay the petitioners salary at minimum of the pay scale prescribed for their counter-parts working as Booking Clerks/Conductors in the respondent-Corporation on regular basis against the regular sanctioned posts plus dearness allowance and other allowances and further to consider their case for regularization of their services in terms of the notification dated 18.03.2011 and letter dated 17.11.2011 and to grant all consequential benefits of seniority, pay fixation and arrears along with interest @ 12% per annum.

Vide order dated 22.11.2023, learned counsel for the petitioners sought time to go through the judgments when learned counsel for the respondents made a statement that the matter is squarely covered by decision passed in LPA Nos.957 and 959 of 2017 dated 31.01.2023. The relevant para of the same is reproduced below:-

“We have heard counsel on both sides and noted their contentions.

We are of the opinion that having regard to the stand taken by the respective parties regarding the nature of work being performed by the respondents, it would have been appropriate for learned Single Judge to relegate the respondents to a Labour Court, constituted under the Industrial Disputes Act, 1947 to go into the question as to whether (a) the duties performed by the respondents are akin to those being performed by regular employees of the appellant-Corporation and (b) there is relationship of master in servant between the appellant and the respondents.

The factual assertions made by respective parties require to be inquired into after giving opportunities to them to lead oral and documentary evidence; and in Writ Petition under Article 226 of the Constitution in India, such factual disputes are not normally entertained.

Therefore, without expressing any opinion on the rival contentions, we set aside the findings of the learned Single Judge about the existence of employer- employee relationship or about the nature of the work being done by the respondents being akin to that of regular employees of the Corporation; and leave it open to the respondents to approach the competent Labour Court for adjudication on both these aspects.

Appeals are allowed to the extent indicated above.

Pending CMs, if any, shall also stand disposed of.”

Today, learned counsel for the petitioners does not dispute this fact that the case of the petitioners is squarely covered by the aforesaid judgment, and prays that in light of the aforesaid judgment, liberty be also granted to the petitioners to approach the competent Labour Court for

adjudication of their case

The prayer is accepted.

The petition is disposed of in the same terms with the aforesaid liberty.

Since the main petition is disposed of, therefore, pending miscellaneous application(s), if any, also stand disposed of.

(DEEPAK MANCHANDA)
JUDGE

30.11.2023
vanita

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