



In the High Court of Punjab and Haryana at Chandigarh

1.

CWP No. 19280 of 2011 (O&M)
Reserved on: 29.8.2024
Date of Decision: 31.8.2024
- Chandigarh Administration, Chandigarh and another

.....Petitioners
- Versus
- Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and others

.....Respondents
2.

CWP No. 6873 of 2012 (O&M)
- Union Territory, Chandigarh and others

.....Petitioners
- Versus
- Central Administrative Tribunal, Chandigarh
and others

.....Respondents
3.

CWP No. 27546 of 2013 (O&M)
- Union Territory, Chandigarh and others

.....Petitioners
- Versus
- Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and others

.....Respondents
4.

CWP No. 20341 of 2014 (O&M)
- Union Territory, Chandigarh and another

.....Petitioners
- Versus
- Rohit Singh Rawat and another

.....Respondents
5.

CWP No. 23007 of 2014 (O&M)
- Union Territory, Chandigarh and others

.....Petitioners
- Versus
- Pardeep Kumar and others

.....Respondents



- 6. CWP No. 19723 of 2014 (O&M)**
Union Territory of Chandigarh and othersPetitioners
Versus
The Central Administrative Tribunal, Chandigarh Bench,Respondents
Chandigarh and another
- 7. CWP No. 19334 of 2014 (O&M)**
Union Territory, Chandigarh and othersPetitioners
Versus
Jasmer Singh and othersRespondents
- 8. CWP No. 25058 of 2014 (O&M)**
Union Territory, Chandigarh and othersPetitioners
Versus
Neeru and othersRespondents
- 9. CWP No. 25333 of 2014 (O&M)**
Union Territory, Chandigarh and othersPetitioners
Versus
Mona Chadha and othersRespondents
- 10. CWP No. 18454 of 2014 (O&M)**
Union Territory, Chandigarh and anotherPetitioners
Versus
Shilpa Jindal and othersRespondents
- 11. CWP No. 5820 of 2015 (O&M)**
Union Territory, Chandigarh and anotherPetitioners
Versus
Manpreet Kaur Juneja and othersRespondents



12.

CWP No. 22581 of 2011 (O&M)

Chandigarh Administration, Chandigarh and another

.....Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and others

.....Respondents
13.

CWP No. 8628 of 2015 (O&M)

Union Territory, Chandigarh and others

.....Petitioners

Versus

Puneet Garg and others

.....Respondents
14.

CWP No. 345 of 2016 (O&M)

Union Territory, Chandigarh and others

.....Petitioners

Versus

The Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and others

.....Respondents
15.

CWP No. 20790 of 2016 (O&M)

Chandigarh Administration, Chandigarh and another

.....Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and others

.....Respondents
16.

CWP No. 20791 of 2016 (O&M)

Chandigarh Administration, Chandigarh and another

.....Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and others

.....Respondents



17.

CWP No. 21695 of 2016 (O&M)

Chandigarh Administration, Chandigarh and another

.....Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and others

.....Respondents
18.

CWP No. 21703 of 2016 (O&M)

Chandigarh Administration, Chandigarh and another

.....Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
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.....Respondents
19.

CWP No. 21706 of 2016 (O&M)

Chandigarh Administration, Chandigarh and another

.....Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and others

.....Respondents
20.

CWP No. 21955 of 2016 (O&M)

Chandigarh Administration, Chandigarh and another

.....Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and others

.....Respondents
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CWP No. 21956 of 2016 (O&M)

Chandigarh Administration, Chandigarh and another

.....Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and another

.....Respondents
22.

CWP No. 21976 of 2016 (O&M)

Chandigarh Administration, Chandigarh and another

.....Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,

.....Respondents



Chandigarh and others

23. CWP No. 26875 of 2016 (O&M)

Chandigarh Administration, Chandigarh and anotherPetitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
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24. CWP No. 26876 of 2016 (O&M)

Chandigarh Administration, Chandigarh and anotherPetitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and othersRespondents

25. CWP No. 26877 of 2016 (O&M)

Chandigarh Administration, Chandigarh and anotherPetitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
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26. CWP No. 26878 of 2016 (O&M)

Chandigarh Administration, Chandigarh and anotherPetitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
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27. CWP No. 26879 of 2016 (O&M)

Chandigarh Administration, Chandigarh and anotherPetitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and othersRespondents



28.

CWP No. 26880 of 2016 (O&M)

Chandigarh Administration, Chandigarh and anotherPetitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and anotherRespondents
29.

CWP No. 26881 of 2016 (O&M)

Chandigarh Administration, Chandigarh and anotherPetitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and anotherRespondents
30.

CWP No. 26601 of 2016 (O&M)

Chandigarh Administration, Chandigarh and anotherPetitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and othersRespondents
31.

CWP No. 26602 of 2016 (O&M)

Chandigarh Administration, Chandigarh and anotherPetitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and othersRespondents
32.

CWP No. 26603 of 2016 (O&M)

Chandigarh Administration, Chandigarh and anotherPetitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and anotherRespondents



33.

CWP No. 26604 of 2016 (O&M)

Chandigarh Administration, Chandigarh and another

.....Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and another

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34.

CWP No. 24902 of 2015 (O&M)

Union Territory of Chandigarh and others

.....Petitioners

Versus

Madhavi and others

.....Respondents
35.

CWP No. 20690 of 2016 (O&M)

Chandigarh Administration, Chandigarh and another

.....Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
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.....Respondents
36.

CWP No. 20259 of 2012 (O&M)

Union Territory of Chandigarh and others

.....Petitioners

Versus

Shalinder Kaur and others

.....Respondents
37.

CWP No. 1127 of 2014 (O&M)

Union Territory of Chandigarh and others

.....Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and others

.....Respondents
38.

CWP No. 1168 of 2014 (O&M)

Union Territory of Chandigarh and others

.....Petitioners

Versus

Central Administrative Tribunal, Chandigarh Bench,
Chandigarh and others

.....Respondents



CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Argued by: Mr. Amit Jhanji, Senior Standing Counsel U.T. with
Mr. Sumeet Jain, Addl. Standing Counsel and
Mrs. Madhu Dayal, Advocate and
Mr. Himanshu Arora, Panel Counsel
for the petitioner/U.T. Chandigarh (in CWP-26880-2016 &
CWP-26881-2016).

Mr. Maheshinder Singh Sidhu, Addl. Standing Counsel
petitioner/U.T. Chandigarh (in CWP-1127-2014).

Mr. Parminder Singh Kanwar, Addl. Standing Counsel
for petitioner/U.T. Chandigarh in (CWP-25333-2014).

Mr. Ankit Midha, Advocate for the petitioner(s)
U.T. Chandigarh in (CWP-19334-2014, CWP345-2016 and
CWP-25058-2014).

Mr. Mayank Sharma, Advocate for
the petitioner(s)/U.T. Chandigarh.

Mr. Suman Jain, Advocate and
Mr. Rishabh Jain, Advocate for the petitioner
(in CWP-23007-2014).

Dr. Neha Awasthi, Advocate for the petitioner(s)
(in CWP-27546-2013 and CWP-26878, 26879 of 2016).

Mr. Lokesh Chander Aggarwal, Advocate for the petitioner
(in CWP-24902-2015).

Mr. Ashish Rawal, Advocate for the petitioner(s)
(in CWP-18454-2014, CWP-21695-2016 and CWP-21703-2016).

Mr. D.S. Patwalia, Sr. Advocate assisted by
Ms. Rishu Bajaj, Advocate
for the respondent Nos. 2, 3, 5, 6, 7, 9, 14, 16, 17 and 19 to 23
(in CWP-6873-2013).

Mr. Nikhil Chopra, Advocate and
Mr. Shubham, Advocate for the petitioner
(in CWP-6873-2013).

Mr. Abhinav Sood, Advocate and
Ms. Mehndi Singhal, Advocate for the petitioner(s)
(in CWP-26604-2016).

Mr. J.S. Chandail, Advocate and
Mr. Aman Kumar, Advocate for the petitioner(s)
(in CWP-20341-2014 & 19280-2011).



Ms. Aashna Gill, Advocate for the petitioner(s)
(in CWP-5820-2015).

Mr. Anil Sharma, Advocate for the petitioner(s)
(in CWP-21955-2016, CWP-21706-2016 & CWP-25058-2014).

Mr. Sandeep Siwatch, Advocate, for respondents
No.2 to 5, 9 to 12 & 14 (in CWP-19280-2011);
for respondent Nos.3, 13, 16, 76, 87, 92, 99, 102,
103, 104, 106, 111, 112, 120, 121, 122 (in CWP-20790-2016);
for respondent Nos.2,3,4 & 9 (in CWP-20791-2016);
for respondent Nos.4 & 7 (in CWP-21955-2016);
for respondent Nos.2 to 8 & 10 to 12 (in CWP-21976-2016).

Mr. Prateek Rathee, Advocate for the respondent
(in CWP-26603-2016).

Mr. Puneet Gupta, for Mr. Navdeep Chhabra, Advocate
for respondent No.1 (in CWP-24902-2015
and for respondent No.2 in (CWP-27546-2013).

Mr. Gaurav Rana, Advocate
for respondents No.2, 3, 5 to 7, 9 to 14, 16, 17, 19 to 23.

Mr. Amit Jaiswal, Advocate
for respondent No.2 (in CWP-1168-2014)
and for respondent No.1 in (CWP-18454-2014).

Mr. Rajesh Bansal, Advocate and
Mr. Naveen Nandal, Advocate and
Mr. Jaswant Singh, Advocate for respondent No.2.

Mr. Rishav Sharma, Advocate
for respondents 21 to 35 (in CWP-20690-2016).

Mr. D.S.Nalwa, Advocate
for respondents No. 1 to 17 (in CWP-23007-2014)
for respondents No. 1 to 16 (CWP-19334-2014),
for respondent No. 2 (in CWP-25058-2014),
for respondent No. 1 (in CWP-20341-2014),
for respondent No. 8 (in CWP-345-2016) and
for respondents No. 1 and 2 (in CWP-5820-2015).

SURESHWAR THAKUR, J.

1. Though, all the writ petitions (supra) arise from different advertisement notices, and, though separate decisions became recorded in some of the writ petitions (supra), in respect of different advertisements (supra). However, since reliefs, have been granted to all the private



respondents herein, thus while relying upon the decisions passed by the Tribunal concerned, in a bunch of cases i.e. in ***OA No. 33/CH/2011 titled as Vandana Jain and others versus Union of India and others (challenged in CWP-19280-2011)*** and in ***OA No. 905/CYH/2011 titled as Parul Aggarwal and others versus Union of India and others (challenged in CWP-6873-2013)***, wherein becomes expostulated the principle of equal pay for equal work. Therefore, all the writ petitions (supra) are amenable for a common verdict being made thereons.

2. Nonetheless, the short facts of the each cases (supra) and the reliefs claimed therein are as under.

(1) CWP-19280-2011

In the present case, a prayer has been made for setting aside the order dated 31.3.2011 (Annexure P-1) passed by the Central Administrative Tribunal (for short 'the CAT') Chandigarh Bench. It is averred in the instant petition, that respondents No. 2 to 15 had approached the Tribunal concerned, by way of filing OA No. 33/CH/2011 with a prayer that directions be issued to the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled on regular basis. It is averred in the instant petition that the claim of the respondents No. 2 to 15 was allowed by the Tribunal concerned, without appreciating the reasons compelling the petitioner-Administration to appoint them as Lecturers on contract basis against Additional Vacancies in various Government Colleges in U.T., Chandigarh.

(2) CWP-6873-2013

In the instant case, a prayer has been made for setting aside the order dated 9.1.2012 (Annexure P-3) passed by the CAT. It is averred in the



instant petition, that the private respondents herein had approached the Tribunal concerned, with a prayer that directions be issued to the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled on regular basis. Vide impugned order (supra), the said relief became allowed to the respondents by the Tribunal concerned. Hence the instant petition.

(3) CWP-27546-2013

The instant petition is directed against the order dated 13.3.2012 (Annexure P-3) passed by the CAT. It is averred in the instant petition, that respondent No. 2 was appointed as a Lecturer on contract basis in the month of May 2006. She was relieved from college to pursue higher studies. In February 2009, respondent No. 2 was again appointed as Lecturer on contract basis. It is further averred that respondent No. 2 again applied for maternity leave, which was granted to her, and, she proceeded on leave with effect from 1.2.2011 for a period of three months. Thereafter she resumed her duties on 29.4.2011 and sought the benefits for the months on which she remained on maternity leave. Since the said benefits were not released to her, she proceeded to file O.A. No. 104/CH/2012 before the Tribunal concerned, seeking therein the relief that she be not replaced by the contractual employee, and, to pay her the salary for the period she remained on maternity leave. Vide impugned order (supra), the O.A. (supra) filed by respondent No. 2 was allowed by the Tribunal concerned. Hence the instant petition.

(4) CWP-20341-2013

In the instant case, pursuant to an advertisement, respondent No. 1 had applied for the contractual post of Peon. Subsequently, respondent



No. 1 was appointed as Peon on contract basis. After completion of his contract term of six months on 26.4.2012, respondent No. 1 was relieved from duties and became re-appointed on 1.5.2012 after a break of 5 days. It is further averred that before completion of his second term of six months, respondent No.1 had filed OA No. 1192/CH/2012 before the Tribunal concerned, seeking relief therein that he be not replaced by the contractual employee, and, that he is entitled to continue in service till the post is filled on regular basis, besides he is also entitled to minimum of the pay scale with D.A. Vide the impugned order dated 27.8.2013 the O.A. (supra) filed by respondent No. 1 was allowed by the Tribunal concerned. Hence the instant petition.

(5) CWP-23007-2014

The challenge in the instant petition is to the order dated 9.1.2012 (Annexure P-3) passed by the Tribunal concerned in OA No. 1260/CH/-2011, seeking relief therein that they be allowed to continue in service till the regular appointees join, besides they be also allowed vacations and salary for that period. Vide the impugned order dated (supra), the O.A. (supra) filed by the respondents concerned, became allowed by the Tribunal concerned. It is averred in the instant petition that respondents No. 1 to 11 and 13 to 17 are working as Lecturers, whereas, respondents No. 12 and 18 who were also working as Lecturers resigned and their resignation was accepted by petitioner No. 3 respectively on 17.6.2012 and 1.6.2012. The all the above respondents were appointed on contractual basis. It is further averred in the instant petition that on the basis of apprehension that their services will be terminated on the expiry of one year from the date of their appointment, thus the private respondents herein filed the application



(supra).

(6) CWP-19723-2014

The instant petition is directed against the order dated 20.12.2013 (Annexure P-3) passed by the CAT. It is averred in the instant petition that respondent No. 2 was appointed as a Fitter-cum-Mechanic on contract basis, through an appointment letter dated 4.8.2010 for a period of 4.8.2010 to 3.2.2011 at a consolidated salary of Rs. 9500/- per month. It is further averred therein that respondent No.2 filed an application under Section 19 of the Administrative Tribunals Act, 1985 before the Tribunal concerned, seeking relief therein that the respondents be directed to not put break in the service/appointment of the respondent and not to replace him by contractual appointee. The said application vide the impugned order became allowed by the Tribunal concerned. Hence, the instant petition.

(7) CWP-19334-2014

In the instant petition, the petitioners have sought the quashing of the impugned order dated 18.12.2012 (Annexure P-1), whereby the Original Application No. 957/CH/2013 filed by the respondent has been allowed by the CAT. It is averred in the instant petition that in response to an advertisement for the post of Workshop Instructor on contract basis for a period not exceeding six months, respondents No. 1 to 3 applied for the said post, and, after following due process w.e.f. 3.10.2005, they were appointed as Workshop Instructors. Similarly, in the years 2006, 2008 and 2010 similar advertisements were also issued for the post of Workshop Instructors and respondents No. 4 to 6 were also appointed as Workshop Instructor(s). It is also averred that after completion of the contractual terms, respondents were relieved by the petitioner. Being aggrieved therefrom, respondents No.



1 to 4 along with one Narinder Singh had approached the Tribunal concerned by filing of OA No. 475-CH-2007. However, the Tribunal observed that since the relief claimed by the applicants had rather been granted to them, as such, the said application became disposed of as having been rendered infructuous. It is further averred in the instant petition, that the private respondents herein again had approached the Tribunal concerned by filing of OA No. 957-CH-2012, seeking relief therein that he is entitled to minimum of admissible pay scale plus DA as revised from time to time, and, that they should be allowed to continue with their service till regular appointments are made. Vide the impugned order, the said application became allowed by the Tribunal. Hence, the instant petition.

(8) CWP-25058-2014

In the instant petition, the petitioners have sought the quashing of the impugned order dated 17.12.2012 (Annexure P-3) passed by the CAT. It is averred in the instant petition that respondent No. 1 was appointed as Clerk with petitioner No. 2 on contract basis initially for a period of six months. Respondent No. 1 was relieved on completion of her contract term of six months, and, subsequently had been appointed on contract basis on various occasions. It is further averred in the instant petition, that before completion of her contract term of five months, she had filed OA No. 934/CH/-2012, seeking relief therein that they be not replaced by the contractual appointees, and, that the respondents therein, be directed to pay the applicants minimum of the pay scale w.e.f their initial date of appointment minus the consolidated salary already paid to the applicants. Vide the impugned order, the said application became allowed by the CAT. Hence, the instant petition.



(9) CWP-25333-2014

In the instant petition, the petitioners have sought the quashing of the impugned order dated 1.7.2014 (Annexure P-3) passed by the CAT. It is averred in the instant petition that respondents No. 1 to 5 had been appointed as Lecturers on contractual basis and their services were renewed after every six months. The respondents had approached the learned Tribunal by filing of OA No. 08-CH-2013, seeking relief(s) therein, that they be granted minimum of pay scale plus admissible dearness allowance since the initial appointment, and, also sought the release of arrears of salary by granting minimum of pay scale and admissible dearness allowance from time to time. Vide the impugned order, the said application became allowed by the CAT. Hence, the instant petition.

(10) CWP-5280-2015

In the instant petition, the petitioners have sought the quashing of the impugned order dated 12.5.2014 (Annexure P-3) passed by the CAT. It is averred in the instant petition that respondents No. 1 to 2 were appointed as Instructor Computer Operator and Programming Assistants in Government Industrial Training Institute for Women, Sector-11, Chandigarh, on contractual basis, and, that their appointments had been made subject to that the initial assignment would be for a period of six months or till the posts were filled on regular basis through UPSC whichever is earlier. It is further averred therein, that their services were renewed as per their appointment letters. The respondents had approached CAT by filing of OA No. 305-CH-2013 seeking therein relief of release of arrears of salary by granting minimum of pay scale, grade pay and dearness allowance, as admissible to regular employees. Vide the impugned order (supra), the



said application became allowed by the CAT. Hence, the instant petition.

(11) CWP-18454-2014

In the instant petition, the petitioners have sought the quashing of the impugned order dated 22.3.2013 (Annexure P-5) passed by the CAT. It is averred in the instant petition that respondent No. 1 was appointed as Lecturer on contract basis, and, her service was renewed after every six months by giving her a notional break of one working day. Subsequently pursuant to the advertisement for the post of Assistant Professor, respondent No. 1 selected by the selection committee concerned, and, was re-designated as Assistant Professor w.e.f. 19.1.2009. It is further averred therein, that respondent No. 1 had approached CAT by filing of OA No. 1492/CH/-2012 seeking therein relief for grating her minimum of pay scale, and, for the release of arrears of salary. Vide the impugned order (supra), the said application became allowed by the CAT. Hence, the instant petition.

(12) CWP-22581-2011

In the instant petition, the petitioners have sought the quashing of the impugned order dated 22.7.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondents No. 3 and 4 had approached CAT by filing OA No. 331/CH/2011, laying a challenge to the office order dated 10.3.2010 and the notification dated 23.6.2010 whereby they were ordered to be relieved from service as Lecturer on contract basis. In the said application, the respondents herein had also sought directions upon the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled in on regular basis. The said application became allowed by the CAT. Hence the instant petition.



(13) CWP-8628-2015

In the instant petition, the petitioners have sought the quashing of the impugned order dated 10.12.2013 (Annexure P-1) passed by the CAT. The respondents herein had approached CAT by filing OA No. 1039-CH-2012, seeking relief(s) therein, that the petitioners herein be restrained from breaking the service of the respondents, and, their services be continued as contractual appointees till the regular appointments are not made, besides for granting them the salary for vacations and maternity/paternity relief. They further prayed that they be granted minimum of pay scale of the post of Training and Placement Officer, Lab Technician, Computer Assistant, Lab Attendant, Workshop Assistant and Workshop Attendant with grade pay and dearness allowance, as increased from time to time with effect from their initial date of appointment. The said application filed by the respondents herein, became allowed by the CAT. Hence the instant petition.

(14) CWP-345-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 10.12.2013 (Annexure P-3) passed by the CAT. It is averred in the instant petition that respondents No. 2 to 6 and 8 were appointed as Clerks on contract basis, whereas respondent No. 7 was appointed as Driver on daily wage basis. All the appointments were made on contract basis for a period of six months, and, after giving a notional break of one day after the expiry of contractual period, the contract of the respondents was renewed. It is further averred in the instant petition that on the basis of apprehension that their contract may not be renewed due to the said notional break, the respondents had approached the CAT by filing of OA No. 1040-CH-2012, seeking therein relief(s) that the petitioners herein



be restrained from putting a one day notional break in the appointment of the respondents after completion of every semester and not to replace them by contractual appointees. Vide the impugned order (supra), the said application became allowed by the CAT. Hence, the instant petition.

(15) CWP-20790-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondents No. 2 to 122 had approached CAT by filing OA No. 36/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled in on regular basis, besides for granting them the salary for vacations. In addition, they had also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order, the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(16) CWP-20791-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondents No. 2 to 10 had approached CAT by filing OA No. 140/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled in on regular basis, besides for granting them the salary for vacations. In addition, they had also sought directions being issued upon the authority concerned, to



prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order, the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(17) CWP-21695-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondents No. 2 to 7 had approached CAT by filing OA No. 147/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled in on regular basis, besides for granting them the salary for vacations. In addition, they had also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order, the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(18) CWP-21703-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondents No. 2 to 13 had approached CAT by filing OA No. 173/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled in on regular basis, besides for granting them the salary for vacations. In addition, they had also sought directions being issued upon the authority concerned, to



prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order(supra), the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(19) CWP-21706-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondents No. 2 to 14 had approached CAT by filing OA No. 149/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled in on regular basis, besides for granting them the salary for vacations. In addition, they had also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order(supra), the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(20) CWP-21955-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondents No. 2 to 8 had approached CAT by filing OA No. 147/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled in on regular basis, besides for granting them the salary for vacations. In addition, they had also sought directions being issued upon the authority concerned, to



prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order(supra), the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(21) CWP-21956-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 13.4.2011 (Annexure P-1) passed by the CAT, while relying upon the order dated 31.3.2011 passed in connected bunch of matters. It is averred in the instant petition that respondent No. 2 had approached CAT by filing OA No. 341/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace her by contractual appointees and to continue her in service till the posts are filled in on regular basis, besides for granting her the salary for vacations. In addition, she had also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order(supra), the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(22) CWP-21976-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondents No. 2 to 12 had approached CAT by filing OA No. 287/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled in on regular basis, besides for granting them the salary for vacations. In addition,



they had also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order(supra), the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(23) CWP-26875-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondents No. 2 and 3 had approached CAT by filing OA No. 179/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled in on regular basis, besides for granting them the salary for vacations. In addition, they had also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order(supra), the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(24) CWP-26876-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondents No. 2 to -7 had approached CAT by filing OA No. 236/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled in on regular basis, besides for granting them the salary for vacations. In addition,



they had also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order(supra), the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(25) CWP-26877-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondents No. 2 to 5 had approached CAT by filing OA No. 271/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled in on regular basis, besides for granting them the salary for vacations. In addition, they had also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order (supra), the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(26) CWP-26878-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondent No. 2 had approached CAT by filing OA No. 225/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace her by contractual appointees and to continue her in service till the posts are filled in on regular basis, besides for granting her the salary for vacations. In addition, she had



also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order(supra), the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(27) CWP-26879-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondents No. 2 and 3 had approached CAT by filing OA No. 218/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled in on regular basis, besides for granting them the salary for vacations. In addition, they had also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order(supra), the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(28) CWP-26880-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondent No. 2 had approached CAT by filing OA No. 758/CH/2010, seeking directions upon the Chandigarh Administration rather not to replace her by contractual appointees and to continue her in service till the posts are filled in on regular basis, besides for granting her the salary for vacations. In addition, she had



also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order(supra), the said application filed by the respondent concerned, became allowed by the CAT. Hence the instant petition.

(29) CWP-26881-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondent No. 2 had approached CAT by filing OA No. 216/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace her by contractual appointees and to continue her in service till the posts are filled in on regular basis, besides for granting her the salary for vacations. In addition, she had also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order(supra), the said application filed by the respondent concerned, became allowed by the CAT. Hence the instant petition.

(30) CWP-26601-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondents No. 2 to 4 had approached CAT by filing OA No. 234/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled in on regular basis, besides for granting them the salary for vacations. In addition,



they had also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order(supra), the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(31) CWP-26602-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondents No. 2 and 3 had approached CAT by filing OA No. 170/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled in on regular basis, besides for granting them the salary for vacations. In addition, they had also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order (supra), the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(32) CWP-26603-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondent No. 2 had approached CAT by filing OA No. 163/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace her by contractual appointees and to continue her in service till the posts are filled in on regular basis, besides for granting her the salary for vacations. In addition, she had



also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order(supra), the said application filed by the respondent concerned, became allowed by the CAT. Hence the instant petition.

(33) CWP-26604-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondent No. 2 had approached CAT by filing OA No. 177/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace him by contractual appointees and to continue him in service till the posts are filled in on regular basis, besides for granting him the salary for vacations. In addition, he had also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order(supra), the said application filed by the respondent concerned, became allowed by the CAT. Hence the instant petition.

(34) CWP-24902-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 4.9.2014 (Annexure P-3) passed by the CAT. It is averred in the instant petition that respondent No. 1 was appointed as Lecturer on contract basis, and, her service was renewed after every six months by giving her a notional break of one working day. Subsequently pursuant to the advertisement for the post of Assistant Professor, respondent No. 1 selected by the selection committee concerned, and, was re-designated



as Assistant Professor w.e.f. 19.2.2009. It is further averred therein, that respondent No. 1 had approached CAT by filing of OA No. 060/00262/2014 seeking relief(s) therein qua granting her minimum of pay scale plus admissible D.A., and, for the release of arrears of salary. Vide the impugned order(supra), the said application filed by the respondent concerned, became allowed by the CAT. Hence the instant petition.

(35) CWP-20690-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 31.3.2011 (Annexure P-1) passed by the CAT. It is averred in the instant petition that respondents No. 2 and 3 had approached CAT by filing OA No. 166/CH/2011, seeking directions upon the Chandigarh Administration rather not to replace them by contractual appointees and to continue them in service till the posts are filled in on regular basis, besides for granting them the salary for vacations. In addition, they had also sought directions being issued upon the authority concerned, to prepare a combine a subject-wise seniority list of contractual appointees and to follow the principle of 'First come last go'. Vide the impugned order (supra), the said application filed by the respondents concerned, became allowed by the CAT. Hence the instant petition.

(36) CWP-20259-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 17.7.2012 (Annexure P-1) passed by the CAT, whereby the OA No. 201/HR/2012, filed by respondent No. 1 became allowed and she was held entitled to continue as a contractual Lecturer/Assistant Professor till she is replaced by a regularly appointed Lecturer/Assistant Professor.



(37) CWP-1127-2016

In the instant petition, the petitioners have sought the quashing of the impugned order dated 9.8.2012 (Annexure P-3) passed by the CAT., whereby OA No. 90-CH-2012, filed by the respondents herein became allowed by the CAT while relying upon a decision passed by the Tribunal concerned, upon O.A. No. 905/CG/2011 titled as ‘Parul Aggarwal and others versus UOI and others’.

(38) CWP-1168-2014

In the instant petition, the petitioners have sought the quashing of the impugned order dated 15.12.2011 (Annexure P-3) passed by the CAT, upon OA No.1226-CH-2011 filed by respondent No. 2, whereby she had sought qua a direction being made upon the petitioner concerned, to not replace her by contractual appointees, and, for also sought maternity benefits, as per various orders of the Tribunal concerned. It is averred in the instant petition, that vide the impugned order, the application (supra) became allowed by the CAT while holding that respondent No. 2 would be entitled to grant of maternity leave for a period of 180 days as per the recommendation of the 6th Pay Commission. Hence the instant petition.

3. In the impugned verdict passed by the CAT, appended to CWP-19280-2011 as Annexure P-1, verdict whereof became relied upon by the CAT while passing the decision in other writ petitions (supra), thus the CAT made the hereinafter conclusions, which occur in paragraph 38 of the said verdict.

“38. In the present case too:-

(i) There is no controversy that the applicants are qualified as per the norms and guidelines issued by the UGC for appointments as Lecturers;



(ii) It is also apparent from the record that the applications for appointment had been invited by the Director Technical Education and the selections had been made by a duly constituted Selection Committee; and

(iii) A presentation was made by the Union Territory Administration in the course of hearing that a proposal for sanction of 212 posts of lecturers (additional vacancies) had been forwarded to the concerned authorities in the Government of India. It was a common ground that besides these additional vacancies, 370 posts of lecturers area already sanctioned in the Union Territory of Chandigarh.

4. Subsequently, vide the impugned verdict, the hereinafter extracted impugned directions became passed by the CAT.

“(i) The applicants shall not be replaced by contractual employees and they shall continue in service till the posts are filled up on regular basis;

(ii) The official respondents are directed to prepare a combined (subjectwise) seniority list of contractual lecturers and they shall be further duty-bound to follow the principle of 'First come, last go' in the matter of engagement of laid off lecturers and also the directions issued by the Coordinate Benches of this Tribunal in Krishan Kumar's case and Santosh Malik's case (supra). The yearly intake of the contractual lecturers shall, obviously, be need-based.

(iii) The clauses, in terms and conditions of the appointment letters issued to the applicants restricting the appointment to a period of eight months and also denying the salary for the vacation period to them, are held to be unconstitutional and are quashed; and

(iv) In view of the categorical law laid down by the learned Coordinate Bench in KRISHAN KUMAR VS. UNION TERRITORY OF CHANDIGARH & OTHERS (supra) (wherein appropriate sustenance was drawn from the view obtained by the Apex Court in RATTAN LAL & OTHERS VS.



STATE OF HARYANA & OTHERS, MUNICIPAL CORPORATION OF DELHI VS. FEMALE WORKERS (MUSTER ROLL) AND ANOTHER (supra), and also a Division Bench ruling of the Punjab and Haryana High Court in the case of **RAJ BALA VS. STATE OF HARYANA: 2002(3) RSJ(43)**, all the contractual lecturers shall be entitled to minimum of the pay scale of the post, with Dearness Allowance, as admissible from time to time and also the maternity leave to the extent indicated in that judgment (Krishan Kumar's case). The benefit of maternity leave would be available to a female contractual employee, with less than two surviving children. The duration thereof would be the same as has been recommended by the Vith Central Pay Commission.”

5. In the other writ petitions (supra), almost similar conclusion(s) became drawn by the CAT, and, almost similar directions became passed, as became passed in Annexure P-1 (in CWP-19280-2011).

Submissions of the learned counsels for the respondents

6. The learned counsels for the respondents have vigorously argued, that with this Court on 2.12.2019, thus making the hereinafter extracted directions:-

“The Chandigarh Administration has challenged the order dated 31.03.2011 (Annexure P-1) passed by the learned Central Administrative Tribunal, Chandigarh Bench (in short 'the Tribunal'), inter alia, granting the relief of payment of 'Dearness Allowance' to the contractual employees with effect from original dates of applications of the respondent(s)-Contractual Masters / Lecturers employed by the Education Department of U.T., Chandigarh.

It transpires that the benefit of admissible 'Dearness Allowance', equivalent to the counter-parts working on regular basis, already stands released to the respondent(s)-Contractual Teachers w.e.f. 36 (thirty-six) months prior to the date(s) of filing of



the original application(s) before the Tribunal by the private respondents. It is also evident that in service jurisprudence, the benefit of 'Dearness Allowance' cannot be extended on notional basis with effect from the retrospective date, and therefore, to that extent the impugned order dated 31.03.2011 (P-1) passed by the Tribunal has to be modified.

To render the present writ petition(s) infructuous, an affidavit of the Secretary Education, U.T., Chandigarh, qua all the private respondents herein, extending the benefit in view of the aforesaid terms be filed by the next date of hearing, so as to settle the issue(s).

Adjourned to 18.12.2019.

A photocopy of this order be placed on the file(s) of connected case(s).”

7. Therefore, it is further argued, that since a reading of the above extracted order reveals, that since therebys the espoused benefits became released to the respondents-contractual teachers, thus with retrospective effect. Moreover, since it is also stated therein, that in service jurisprudence, the benefit of Dearness Allowance, cannot be extended on notional basis, thus with retrospective effect. Resultantly, the impugned order(s) became declared to be modified, inasmuch as, the said relief though became validly granted with retrospective effect, but untenably only on notional basis, whereupon the dearness allowances payable to the respondents herein become directed to be disbursed to them with retrospective effect. Moreover, it was also declared therein, that to make the writ petitions becoming rendered infructuous, thus a direction being required to be made upon the Secretary Education, U.T., Chandigarh, to file an affidavit that in view of the according of the espoused benefits to the contractual Teachers, therebys the said writ petitions are required to be declared as becoming rendered infructuous.

8. Furthermore, it is also contended that when the writ petitions



(supra) became listed on 18.12.2019, thus the hereinafter extracted directions were passed whereby the apposite affidavits were asked to be filed, thus declaring therein the rationale in granting dearness allowance to the contractual employees with effect from 1.1.2016. Therefore, it is vehemently contended, that with the assigning(s) of the claimed benefits to the respondents herein, whereby compliance becomes made to the impugned directions, carried in Annexure P-1 (CWP-19280-2011), resultantly, the instant writ petitions become rendered infructuous.

“Mr. Gaurav Mohunta, learned counsel for the petitioner in one of the case prays for more time to file the required affidavit.

Adjourned to 23.4.2020.

However, it is clarified that the said affidavit would also indicate the rationale in granting dearness allowance to the contract employees w.e.f. 1.1.2016 who have been granted the minimum of the pay scale as wages in place of the previous fixed salary.”

Reasons for rejecting the above contentions

9. However, for the reasons to be assigned hereinafter, the said made argument does not appeal to the judicial conscience of this Court, nor thereby the learned counsel for the petitioner becomes estopped to argue vis-a-vis the entitlement of the respondents-contractual teachers qua the espoused reliefs, as become accorded to them, through the makings of the impugned directions.

10. The reason for making the said conclusion spurs from a reading of the hereinafter extracted directions, as become carried in an order rendered by this Court on 6.10.2016, especially when therein it has been explicitly stated that the release(s) of dearness allowances to the contractual Teachers rather shall be subject to their furnishing affidavits to the extent, that the said releases shall be subject to the makings of apposite adjustments,



thus in the event of the writ petitions becoming decided against them.

“We are not inclined to grant interim relief to the applicants/petitioners as prayed for, for the simple reason that the execution before the Tribunal has been pending since years and this application has been moved now belatedly. That apart, we are also concerned with the fact that the Administration is persistently employing Lecturers on contractual basis which would imply that there is a regular need available and yet such an exploitative practice has been adopted by it. The issue whether the contractual employees would be admissible to the benefit of DA would certainly be gone into at the time of final disposal of the writ proceedings, but we find no reason to grant any interim relief as we feel that the Administration is virtually exploiting human resources to its advantage by subjecting the Lecturers to contractual employment year after year without taking a decision to absorb them on regular basis. The amount of DA shall, therefore, be released to the Lecturers in terms of the order of the Tribunal subject to their furnishing affidavits that this amount would be subject to adjustment in the event of the decision of the writ proceedings against them.

Application stands disposed of.”

11. Furthermore, since disclosures occur in an affidavit sworn by Purva Garg, IAS, Education Secretary, qua the affidavits (supra) becoming furnished by the respondents-contractual Teachers, thereupon, the respondents-contractual Teachers, when did also make compliances to the directions (supra) passed by this Court. Resultantly, therebys they acquiesced to the validity of the said passed directions, thereupon unless a decision on merits over the writ petitions (supra) become passed, besides when therebys the apposite impugned order Annexure P-1 (in CWP-19280-2011) becomes affirmed, therebys alone the respondents-contractual Teachers, but would become indefeasibly entitled to the releases of dearness allowance being made to them in terms of the conditional order (supra). Contrarily upon the impugned decision becoming reversed, thereupon, the



respondents would be required to, in terms of their furnished affidavits, thus either make refunds of the excess amount or seek adjustments thereof from the wages/salaries to be liquidated to them hereafter.

Submissions of the learned counsels for the petitioners

12. Be that as it may, the learned counsels for the petitioner(s) has vigorously argued that the impugned verdict whereby on purported application of the principle of equal pay for equal work, thus the impugned directions become made, rather makes palpable contraventions vis-a-vis the verdict recorded by the Apex Court in a case titled as ***State of Punjab and others versus Jagjit Singh and others*** reported in ***(2017) 1 Supreme Court Cases 148***.

13. The learned counsels have further argued, that since the Apex Court while stating in paragraph 5, as occurs in the verdict (supra), para whereof becomes extracted hereinafter, qua the issue relating to whether temporary engaged employees are entitled to minimum of the regular pay scale along with dearness allowance on account of their performing the same duties which are discharged by those engaged on regular basis against the sanctioned posts, did allude, to a decision recorded by Full Bench of this Court in ***Avtar Singh versus State of Punjab***, reported in ***2011 SCC Online P&H 15326***, wherein, there is a declaration that the temporary employees were not *per se* entitled to the minimum of the regular pay scale, despite performing duties similar to the one, as became performed by the regular employees.

14. Since subsequently reiteratedly therein, the Apex Court after referring to ***Avtar Singh***'s case (supra), wherein, it becomes stated, that merely upon the daily wagers and other alike temporary employees



performing duties or functions similar to the ones, as became performed by the regular appointees rather they cannot become extended the benefit of principle of equal pay for equal work, rather at par with the regularly appointed employees.

15. Moreover therein yet an exception to the said principle becomes carved, inasmuch as, upon the engagements in service of the employees, other than the regularly appointed employees taking place yet after the said employees evidently undergoing the rigour of the selection process based upon fairness and equality of opportunity to all other eligible candidates, thereupons they do become entitled, thus to minimum of the regular pay scale from the date of engagement. Furthermore, it also becomes declared therein, that with the employer continuously availing the services of the employees, who though become appointed against substantive posts, but yet are not regularly appointed against the apposite substantive posts/vacancies, besides when they become assigned notional breaks in the continuity of their services, yet the employees other than the regular employees, who are appointed against substantive posts, but after theirs undergoing the selection process, which otherwise was required to be undergone by the regular employees appointed against the substantive posts, thereupon those employees who were temporarily appointed against substantive posts, thus do become vested with an equitable right to claim the minimum of the regular pay scale but without allowances.

16. It also became declared therein that the said employees may be extended the benefit of regularization in terms of the relevant permissible scheme. The above spoken to exceptions, as become carved in **Avtar Singh's** case (supra), become extracted hereinafter. The said exceptions



also become referred by the Apex Court in ***State of Punjab and others versus Jagjit Singh's*** case (supra). For emphasis the said speakings occurring in para 5 of the judgment (supra) are underlined.

“5. The issue which arises for our consideration is, whether temporarily engaged employees (daily-wage employees, ad-hoc appointees, employees appointed on casual basis, contractual employees and the like), are entitled to minimum of the regular pay-scale, alongwith dearness allowance (as revised from time to time) on account of their performing the same duties, which are discharged by those engaged on regular basis, against sanctioned posts. The full bench of the High Court, while adjudicating upon the above controversy had concluded, that such like temporary employees were not entitled to the minimum of the regular pay-scale, merely for reason, that the activities carried on by daily-wagers and the regular employees were similar. However, it carved out two exceptions, and extended the minimum of the regular pay to such employees. The exceptions recorded by the full bench of the High Court in the impugned judgment are extracted hereunder:-

“(1) A daily wager, ad hoc or contractual appointee against the regular sanctioned posts, if appointed after undergoing a selection process based upon fairness and equality of opportunity to all other eligible candidates, shall be entitled to minimum of the regular pay scale from the date of engagement.

(2) But if daily wagers, ad hoc or contractual appointees are not appointed against regular sanctioned posts and their services are availed continuously, with notional breaks, by the State Government or its instrumentalities for a sufficient long period i.e. for 10 years, such daily wagers, ad hoc or contractual appointees shall be entitled to minimum of the regular pay scale without any allowances on the assumption that work of perennial nature is available and having worked for such long period of time, an equitable right is created in such category of persons. Their claim for regularization, if any, may have to be considered separately in terms of legally permissible scheme.



(3) In the event, a claim is made for minimum pay scale after more than three years and two months of completion of 10 years of continuous working, a daily wager, ad hoc or contractual employee shall be entitled to arrears for a period of three years and two months.”

17. Be that as it may, in the verdict (supra), the Apex Court after referring to the afore expostulations of law/exceptions, as carved in **Avtar Singh**’ case (supra), underlined exceptions whereof become hereinabove extracted, subsequently proceeded to in paragraph 6 of the verdict (supra), para whereof becomes extracted hereinafter, examine the issue relating to the application of the principle of equal pay for equal work in two stages, inasmuch as the Apex Court, initially examining the issue whether equal pay for equal work has been extended to the employees engaged on regular basis, and, thereafter proceeded to analyze the rationale behind the application of the said principle by making reference to different categories of temporary employees.

“6. The issue which has arisen for consideration in the present set of appeals, necessitates a bird’s eye view on the legal position declared by this Court, on the underlying ingredients, which govern the principle of ‘equal pay for equal work’. It is also necessary for resolving the controversy, to determine the manner in which this Court has extended the benefit of “minimum of the regular pay-scale” alongwith dearness allowance, as revised from time to time, to temporary employees (engaged on daily-wage basis, as ad-hoc appointees, as employees engaged on casual basis, as contract appointees, and the like). For the aforesaid purpose, we shall, examine the above issue, in two stages. We shall first examine situations where the principle of ‘equal pay for equal work’ has been extended to employees engaged on regular basis. And thereafter, how the same has been applied with reference to different categories of temporary employees.”

18. Furthermore ultimately in paragraph 55 of the verdict (supra),



para whereof becomes extracted hereinafter, the Apex Court set aside the decision recorded by the Full Bench of this Court in **Avtar Singh**'s case (supra), and, further upheld the decision recorded by the Full Bench of this Court in case titled as **State of Punjab versus Rajinder Kumar** reported in **2010 SCC Online P&H 13009**, but with a modification that the employees concerned would be entitled to the minimum of the pay scale of the category to which they belong, but would not be entitled to allowances attached to the posts held by them.

“55. In view of all our above conclusions, the decision rendered by the full bench of the High Court in Avtar Singh v. State of Punjab & Ors. dated 11.11.2011, is liable to be set aside, and the same is hereby set aside. The decision rendered by the division bench of the High Court in State of Punjab and others versus Rajinder Singh and others is also liable to be set aside, and the same is also hereby set aside. e affirm the decision rendered in State of Punjab and others versus Rajinder Kumar, with the modification, that the concerned employees would be entitled to the minimum of the pay-scale, of the category to which they belong, but would not be entitled to allowances attached to the posts held by them.”

19. Resultantly therebys, the learned counsels have argued, that since the exceptions (supra) carved in **Avtar Singh**'s case (supra) become diluted, thereupon, the verdict rendered by the Apex Court whereby the verdict recorded in **Rajinder Kumar**'s case (supra), thus became upheld but with the slight modification (supra), thus holds the force, and, therebys the writ petitions (supra) are required to be allowed.

20. Furthermore, the learned counsels have argued, that since the Apex Court in a judgment rendered in case titled as **State of Bihar and others versus Bihar Secondary Teachers Struggle Committee, Munger and others** reported in **(2019) 18 Supreme Court Cases 301**, thus in paragraph 106 thereof, para whereof becomes extracted hereinafter, has diluted the



rigour of the doctrine of equal pay for equal work. Resultantly the expostulation of law, as occurs in the above extracted paragraph applies with aplomb to the facts at hand.

“106. In our considered view, there has been no violation of the Rights of the Niyojit Teachers nor has there been any discrimination against them. We do not find that the efforts on part of the State Government could be labelled as unfair or discriminatory. Consequently, the submissions as to how the funds could and ought to be generated and what would be the burden on the State Government and the Central Government, do not arise for consideration. In our view, great strides have been made by the State in the last decade. It has galvanised itself into action and not only achieved the objectives of having schools in every neighbourhood but has also succeeded in increasing the literacy rate. It has also succeeded in having more girl children in the stream of education and consequently the TFR, as indicated above, has also improved to a great extent. If these are the benefits or rewards which the society stands to gain and achieve, the State ought to be given appropriate free play. The tabular charts placed on record by the State also show continuous improvements made by the State in the packages made available to the Niyojit Teachers. Said attempts also show that the State is moving in the right direction and the gap which is presently existing between the Government Teachers and the Niyojit Teachers would progressively get diminished. Considering the large number of Niyojit Teachers as against the Government Teachers, the steps taken by the State as evident from various tabular charts presented by it are in the right direction. At this juncture, any directions as have been passed by the High Court, may break even tempo which the State has consistently been able to achieve.”

21. However, for the reasons to be assigned hereinafter, the above



made arguments are rudderless, and, are required to be rejected.

Reasons for rejecting the submissions of the learned counsel(s)
for the petitioner(s)

22. For the reasons to be assigned hereinafter, the arguments raised before this Court by the learned counsels for the petitioners are not sustainable, and, as such they are rejected.

23. The Apex Court in paragraphs 3 and 4 of the verdict recorded in ***State of Punjab versus Jagjit Singh***'s case (supra), paras whereof become extracted hereinafter, has held as under:-

“3. Another division bench of the same High Court, in [*State of Punjab & Ors. v. Rajinder Kumar*](#) dismissed an intra-Court appeal preferred by the State of Punjab, arising out of the judgment rendered by a learned single Judge in *Rajinder Kumar v. State of Punjab & Ors.* (CWP no. 14050 of 1999, decided on 20.11.2002), and affirmed the decision of the single Judge, in connected appeals preferred by employees. The letters patent bench held, that the writ petitioners (working as daily-wage Pump Operators, Fitters, Helpers, Drivers, Plumbers, Chowkidars, Ledger Clerks, Ledger Keepers, Petrol Men, Surveyors, Fitter Coolies, Sewermen, and the like), were entitled to minimum of the pay- scale, alongwith permissible allowances (as revised from time to time), which were being given to similarly placed regular employees. Arrears payable to the concerned employees were limited to three years prior to the filing of the writ petition. In sum and substance, the division bench in [*State of Punjab & Ors. v. Rajinder Kumar*](#) affirmed the position adopted by the learned single Judge in *Rajinder Singh & Ors. v. State of Punjab & Ors.* . It is apparent, that the instant division bench, concluded conversely as against the judgment rendered in [*State of Punjab & Ors. v. Rajinder Singh*](#), by the earlier division bench.

4. It would be relevant to mention, that the earlier judgment rendered, in [*State of Punjab & Ors. v. Rajinder Singh & Ors.*](#) was not noticed by the later division bench in [*State of Punjab & Ors. v. Rajinder Kumar*](#). Noticing a conflict of views expressed in the



judgments rendered by two division benches in the above matters, a learned single Judge of the High Court, referred the matter for adjudication to a larger bench, on 11.5.2011. It is, therefore, that a full bench of the High Court, took up the issue, for resolving the dispute emerging out of the differences of opinion expressed in the above two judgments, in Avtar Singh v. State of Punjab & Ors. (CWP no. 14796 of 2003), alongwith connected writ petitions. The full bench rendered its judgment on 11.11.2011. The present bunch of cases, which we have taken up for collective disposal, comprise of a challenge to the judgment rendered by the division bench of the High Court in [State of Punjab & Ors. v. Rajinder Singh & Ors.](#); a challenge to the judgment, referred to above in [State of Punjab & Ors. v. Rajinder Kumar](#); as also, a challenge to the judgment rendered by the full bench of the High Court in Avtar Singh v. State of Punjab & Ors. This bunch of cases, also involves challenges to judgments rendered by the High Court, by relying on the judgments referred to above.”

24. Further in paragraphs 44 and 53 to 63 as become borne in the verdict rendered in case titled as ***State of Punjab versus Jagjit Singh and others*** (supra), the Apex Court has held as under:-

“44. We shall first outline the conclusions drawn in cases where a claim for pay parity, raised at the hands of the concerned temporary employees, was accepted by this Court, by applying the principle of ‘equal pay for equal work’, with reference to regular employees:-

44.1 In the Dhirendra Chamoli case this Court examined a claim for pay parity raised by temporary employees, for wages equal to those being disbursed to regular employees. The prayer was accepted. The action of not paying the same wage, despite the work being the same, was considered as violative of [Article 14](#) of the Constitution. It was held, that the action amounted to exploitation – in a welfare state committed to a socialist pattern of society.

44.2 In the Surinder Singh case this Court held, that the right of equal wages claimed by temporary employees emerged, inter alia, from [Article 39](#) of the Constitution. The principle of ‘equal pay for equal work’ was again applied, where the subject employee had been appointed on temporary basis, and the reference employee was



borne on the permanent establishment. The temporary employee was held entitled to wages drawn by an employee on the regular establishment. In this judgment, this Court also took note of the fact, that the above proposition was affirmed by a Constitution Bench of this Court, in the D.S. Nakara case.

44.3 In the Bhagwan Dass case this Court recorded, that in a claim for equal wages, the duration for which an employee would remain (- or had remained) engaged, would not make any difference. So also, the manner of selection and appointment would make no difference. And therefore, whether the selection was made on the basis of open competition or was limited to a cluster of villages, was considered inconsequential, insofar as the applicability of the principle is concerned. And likewise, whether the appointment was for a fixed limited duration (six months, or one year), or for an unlimited duration, was also considered inconsequential, insofar as the applicability of the principle of 'equal pay for equal work' is concerned. It was held, that the claim for equal wages would be sustainable, where an employee is required to discharge similar duties and responsibilities as regular employees, and the concerned employee possesses the qualifications prescribed for the post. In [the above case](#), this Court rejected the contention advanced on behalf of the Government, that the plea of equal wages by the employees in question, was not sustainable because the concerned employees were engaged in a temporary scheme, and against posts which were sanctioned on a year to year basis.

44.4 In the Daily Rated Casual Labour Employed under P&T Department through Bhartiya Dak Tar Mazdoor Manch case²² this Court held, that under principle flowing from [Article 38\(2\)](#) of the Constitution, Government could not deny a temporary employee, at least the minimum wage being paid to an employee in the corresponding regular cadre, alongwith dearness allowance and additional dearness allowance, as well as, all the other benefits which were being extended to casual workers. It was also held, that the classification of workers (as unskilled, semi-skilled and skilled), doing the same work, into different categories, for payment of wages at different rates, was not tenable. It was also held, that such an act of an employer, would amount to exploitation. And further that, the



same would be arbitrary and discriminatory, and therefore, violative of [Articles 14](#) and [16](#) of the Constitution.

44.5 In [State of Punjab v. Devinder Singh](#) this Court held, that daily- wagers were entitled to be placed in the minimum of the pay-scale of regular employees, working against the same post. The above direction was issued after accepting, that the concerned employees, were doing the same work as regular incumbents holding the same post, by applying the principle of 'equal pay for equal work'.

44.6 In the Secretary, State of Karnataka case, a Constitution Bench of this Court, set aside the judgment of the High Court, and directed that daily-wagers be paid salary equal to the lowest grade of salary and allowances being paid to regular employees. Importantly, in this case, this Court made a very important distinction between pay parity and regularization. It was held that the concept of equality would not be applicable to issues of absorption/regularization. But, the concept was held as applicable, and was indeed applied, to the issue of pay parity – if the work component was the same. The judgment rendered by the High Court, was modified by this Court, and the concerned daily-wage employees were directed to be paid wages, equal to the salary at the lowest grade of the cadre concerned.

44.7 In [State of Haryana v. Charanjit Singh](#), a three-Judge bench of this Court held, that the decisions rendered by this Court in [State of Haryana v. Jasmer Singh](#), [State of Haryana v. Tilak Raj](#), the Orissa University of Agriculture & Technology case¹⁰, and [Government of W.B. v. Tarun K. Roy](#), laid down the correct law. Thereupon, this Court declared, that if the concerned daily-wage employees could establish, that they were performing equal work of equal quality, and all other relevant factors were fulfilled, a direction by a Court to pay such employees equal wages (from the date of filing the writ petition), would be justified.

44.8 In [State of U.P. v. Putti Lal](#), based on decisions in several cases (wherein the principle of 'equal pay for equal work' had been invoked), it was held, that a daily-wager discharging similar duties, as those engaged on regular basis, would be entitled to draw his wages at the minimum of the pay-scale (drawn by his counterpart, appointed on regular basis), but would not be entitled to any other



allowances or increments.

44.9 In the Uttar Pradesh Land Development Corporation case³³ this Court noticed, that the respondents were employed on contract basis, on a consolidated salary. But, because they were actually appointed to perform the work of the post of Assistant Engineer, this Court directed the employer to pay the respondents wages, in the minimum of the pay-scales ascribed for the post of Assistant Engineer.

X X X X

53. Yet again, all that needs to be stated is, that the observations relied upon by the full bench of the High Court, dealt with the issue of regularization, and not with the concept of 'equal pay for equal work'. Paragraph 7 extracted above, leaves no room for any doubt, that the issue being considered in the Satya Prakash case, pertained to regularisation of the appellants in service. Our view, that the issue being dealt with pertained to regularisation gains further ground from the fact (recorded in paragraph 1 of the above judgment), that the appellants in the Satya Prakash case had approached this Court, to claim the benefit of paragraph 53 of the judgment in the Secretary, State of Karnataka case. Paragraph 53 aforementioned, is reproduced below:-

"53. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in **State of Mysore v. S.V. Narayanappa, AIR 1967 Supreme Court 1071**, **R.N. Nanjundappa v. T. Thimmiah, (1972) 1 SCC 409**, and **B.N. Nagarajan v. State of Karnataka, (1979) 4 SCC 507**, and referred to in para 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularisation of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases abovereferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for



ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularisation, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirement and regularising or making permanent, those not duly appointed as per the constitutional scheme."

A perusal of paragraph 53 extracted above, leaves no room for any doubt, that the issue canvassed was of regularization, and not pay parity. We are therefore of the view, that reliance on paragraph 53, for determining the question of pay parity (claimed by the concerned employees), resulted in the High Court drawing an incorrect inference.

54. The full bench of the High Court, while adjudicating upon the above controversy had concluded, that temporary employees were not entitled to the minimum of the regular pay-scale, merely for the reason, that the activities carried on by daily-wagers and regular employees were similar. The full bench however, made two exceptions. Temporary employees, who fell in either of the two exceptions, were held entitled to wages at the minimum of the pay-scale drawn by regular employees. The exceptions recorded by the full bench of the High Court in the impugned judgment are extracted hereunder:-

"(1) A daily wager, ad hoc or contractual appointee against the regular sanctioned posts, if appointed after undergoing a selection process based upon fairness and equality of opportunity to all other eligible candidates, shall be entitled to minimum of the regular pay scale from the date of engagement.

(2) But if daily wagers, ad hoc or contractual appointees are not appointed against regular sanctioned posts and their services are availed continuously, with notional breaks, by



the State Government or its instrumentalities for a sufficient long period i.e. for 10 years, such daily wagers, ad hoc or contractual appointees shall be entitled to minimum of the regular pay scale without any allowances on the assumption that work of perennial nature is available and having worked for such long period of time, an equitable right is created in such category of persons. Their claim for regularization, if any, may have to be considered separately in terms of legally permissible scheme.

(3) In the event, a claim is made for minimum pay scale after more than three years and two months of completion of 10 years of continuous working, a daily wager, ad hoc or contractual employee shall be entitled to arrears for a period of three years and two months."

54.1 A perusal of the above conclusion drawn in the impugned judgment (passed by the full bench), reveals that the full bench carved an exception for employees who were not appointed against regular sanctioned posts, if their services had remained continuous (with notional breaks, as well), for a period of 10 years. This category of temporary employees, was extended the benefit of wages at the minimum of the regular pay-scale. In the Secretary, State of Karnataka case, similarly, employees who had rendered 10 years service, were granted an exception (refer to paragraph 53 of the judgment, extracted in the preceding paragraph). The above position adopted by the High Court reveals, that the High Court intermingled the legal position determined by this Court on the subject of regularisation of employees, while adjudicating upon the proposition of pay parity, emerging under the principle of 'equal pay for equal work'. In our view, it is this mix-up, which has resulted in the High Court recording its afore-extracted conclusions.

54.2 The High Court extended different wages to temporary employees, by categorizing them on the basis of their length of service. This is clearly in the teeth of judgment in the Daily Rated Casual Labour Employed under P&T Department through Bhartiya Dak Tar Mazdoor Manch case. In the above judgment, this Court held, that classification of employees based on their length of



service (- those who had not completed 720 days of service, in a period of 3 years; those who had completed more than 720 days of service with effect from 1.4.1977; and those who had completed 1200 days of service), for payment of different levels of wages (even though they were admittedly discharging the same duties), was not tenable. The classification was held to be violative of Articles 14 and 16 of the Constitution.

54.3 Based on the consideration recorded herein above, the determination in the impugned judgment rendered by the full bench of the High Court, whereby it classified temporary employees for differential treatment on the subject of wages, is clearly unsustainable, and is liable to be set aside.

55. In view of all our above conclusions, the decision rendered by the full bench of the High Court in **Avtar Singh v. State of Punjab & Ors., dated 11.11.2011**, is liable to be set aside, and the same is hereby set aside. The decision rendered by the division bench of the High Court in **State of Punjab & Ors. v. Rajinder Singh & Ors.** is also liable to be set aside, and the same is also hereby set aside. We affirm the decision rendered in **State of Punjab & Ors. v. Rajinder Kumar, decided on 30.8.2010**, with the modification, that the concerned employees would be entitled to the minimum of the pay-scale, of the category to which they belong, but would not be entitled to allowances attached to the posts held by them.

56. We shall now deal with the claim of temporary employees before this Court.

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 summarised by us in paragraph 42 herein above. The principle of 'equal pay for equal work' has also been extended to temporary employees (differently described as workcharge, daily-wage, casual, ad-hoc, contractual, and the like). The legal position, relating to temporary employees, has been summarised by us, in paragraph 44 herein above. 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.

59. We would also like to extract herein Article 7, of the International Covenant on Economic, Social and Cultural Rights, 1966. The same is reproduced below:-

"Article 7

The States Parties to the present Covenant recognise the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;



(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays."

India is a signatory to the above covenant, having ratified the same on 10.4.1979. There is no escape from the above obligation, in view of different provisions of the Constitution referred to above, and in view of the law declared by this Court under Article 141 of the Constitution of India, the principle of 'equal pay for equal work' constitutes a clear and unambiguous right and is vested in every employee - whether engaged on regular or temporary basis.

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' summarised 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 summarised by us in paragraph 42 herein above. 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.*

62. *Disposed of in the above terms.*

63. *It would be unfair for us, if we do not express our gratitude for the assistance rendered to us by Mr. Rakesh Khanna, Additional Advocate General, Punjab. He researched for us, on our asking, all the judgments on the issue of pay parity. He presented them to us, irrespective of whether the conclusions recorded therein, would or would not favour the cause supported by him. He also assisted us, on different parameters and outlines, suggested by us, during the course of hearing."*

25. The conclusion, as recorded in paragraph 55 of the judgment rendered by the Apex Court in ***State of Punjab and others versus Jagjit Singh's*** case (supra), thus has been read in isolation, vis-a-vis, the consistent declarations alluded to in the verdict (supra). The said consistent declarations are manifested, thus in hereinabove extracted underlined paragraphs 57 and 58, borne in the judgment rendered by the Apex Court in the verdict (supra). The said paragraphs becomes underlined only for the sake of emphasis, vis-a-vis, the expostulation of law relating to parity of pay being assignable to the employees appointed on a contractual basis, adhoc



basis or on daily wage basis rather with regularly appointed employees against substantive posts. A close scrutiny of the hereinabove extracted paragraphs, thus evidently display that, upon evident performance of apposite similar work by the daily wagers or those who are appointed on an adhoc basis or on a contractual basis, therebys they become entitled to parity of pay with regular employees appointed against substantive posts.

26. Reiteratedly, the above underlined paragraphs are self-speaking to the effect that in case daily wagers, contractually appointed employees or those who serve on adhoc basis, are evidently performing works/duties or discharging the responsibilities similar to the ones, as become performed or discharged by the regularly appointed employees against substantive posts, thereupon, the daily wagers, contractually appointed employees, or those who serve on adhoc basis, rather become entitled to parity of pay along with the employees who are appointed on a regular basis against substantive posts.

27. Conspicuously, though therebys there is ample room for clinchingly concluding, that the respondents would become entitled to parity of pay, as became determined through the impugned verdict(s), thus with the regularly appointed employees against the substantive posts, especially with theirs performing duties or discharging responsibilities, as would respectively become so performed or discharged by the regularly appointed employees against substantive vacancies. Imperatively so, when the appointment of the respondents on contractual basis were made but against substantive posts. As such, when they evidently performed duties and discharged liabilities which would otherwise become so performed or discharged by the regularly appointed employees against advertised



substantive posts, thus whereagainsts the respondents became appointed, thereby they become entitled to parity of pay with the regularly appointed employees.

28. However, the learned counsels for the petitioners have re-emphasized upon the conclusion borne in paragraph 55 of the verdict (supra), as carried in the verdict recorded in ***State of Punjab and others versus Jagjit Singh's*** case (supra). However, the reliance as placed thereons for ousting the respondents' claim for parity of pay with the regularly appointed employees against substantive posts, but also is a misfounded reliance. The reason being that in the verdict (supra), the Apex Court has upheld the verdict made by by Full Bench of this Court in ***State of Punjab versus Rajinder Kumar's*** case (supra) but with a modification that the employees concerned, would be entitled to the minimum of the pay scale, of the category to which they belong, but would not be entitled to allowances attached to the posts held by them. Contrarily rather thereby the said modified granted relief but makes the respondents concerned, to make a well espousal qua theirs becoming entitled to minimum of pay scales to the category to which they belong. Therefore, thereby obviously the conclusion borne in paragraph 55 in the verdict (supra) recorded by the Apex Court, whereby the decision recorded by the Full Bench of this Court in ***Avtar Singh's*** case (supra) became annulled, especially when therein an expostulation of law exists, but bearing affinity to the modified relief, as became granted by the Hon'ble Supreme Court of India while pronouncing the decision in case titled as ***State of Punjab versus Rajinder Kumar*** (supra). Resultantly the conclusion made in para 55 (supra), but requires that the same be read in context of the hereinafter extracted inferences, as



became also recorded in ***State of Punjab versus Jagjit Singh***'s case (supra).

29. Be that as it may, the conclusions (supra) to the considered mind of this Court, appears to be a sequel of paragraph 54.1, which hereinafter becomes both extracted, and, also becomes underlined, and, which occurs in the verdict rendered by the Apex Court in ***State of Punjab and others versus Jagjit Singh***'s case (supra).

“54.1 A perusal of the above conclusion drawn in the impugned judgment (passed by the full bench), reveals that the full bench carved an exception for employees who were not appointed against regular sanctioned posts, if their services had remained continuous (with notional breaks, as well), for a period of 10 years. This category of temporary employees, was extended the benefit of wages at the minimum of the regular pay-scale. In the Secretary, State of Karnataka case, similarly, employees who had rendered 10 years service, were granted an exception (refer to paragraph 53 of the judgment, extracted in the preceding paragraph). The above position adopted by the High Court reveals, that the High Court intermingled the legal position determined by this Court on the subject of regularisation of employees, while adjudicating upon the proposition of pay parity, emerging under the principle of ‘equal pay for equal work’. In our view, it is this mix-up, which has resulted in the High Court recording its afore-extracted conclusions.”

30. A reading of the said paragraphs unfolds the reasons which prevailed upon the Apex Court in recording the conclusion, as borne in paragraph 55 of the verdict (supra). A circumspect reading of the above extracted paragraph does not leave any room for doubt that it was only on account of the Full Bench of this Court, thus carving therein the above said exceptions, whereas, the dispute which engaged the Full Bench of this Court in ***Avtar Singh***'s case (supra) related to the subject of regularization of employees. As such, it became concluded that there could not any inter-



mixing or inter-mingling of the contra subjects respectively relating to the subject of regularization with the subject of equal pay for equal work. Therefore, on the said carved exceptions in **Avtar Singh's** case (supra), the verdict recorded in **Avtar Singh's** case (supra) became quashed and set aside.

31. Moreover, what yet further constrained the Apex Court, to set aside the verdict rendered by the Full Bench of this Court in **Avtar Singh's** case (supra), rather ensued, as further discernible from paragraph 54.1 of the verdict recorded by the Apex Court in **State of Punjab and others versus Jagjit Singh's** case (supra) qua the Full Bench of this Court while making a decision in **Avtar Singh's** case (supra), though was proceeding to adjudicate upon the proposition of parity of pay, emerging from the principle of equal pay for equal work, but since as further apparent on a reading of paragraphs 54.2 of the verdict (supra) recorded by the Apex Court, that since this Court while making a decision in **Avtar Singh's** case (supra), yet merely on the basis of the length of service rendered by the relevant categories of employees, thus had proceeded to assign to them parity of pay with those employees who become appointed against substantive posts. Resultantly, when the said extension of parity of pay to the various categories of temporary employees concerned, became embedded upon their respective lengths of service, whereas, the said assignments of relief by the Full Bench of this Court, while rendering a decision in **Avtar Singh's** case (supra), rather falling foul of the judgment rendered by the Apex Court in **Daily Rated Casual Labour Employed under P&T Department through Bhartiya Dak Tar Mazdoor Manch versus Union of India** reported in **38(1988) 1 SCC 122**. Resultantly, it was in the above event of the impermissible lengths of



service, becoming the parameter in assigning to the employees in **Avtar Singh's** case (supra), the benefit of equal pay for equal work, that thereby the apposite exceptions No. 2 and 3, as occur in **Avtar Singh's** case (supra), thus pointedly led the Apex Court to quash and set aside the decision recorded by the Full Bench of this Court in **Avtar Singh's** case (supra).

32. Conspicuously, ex facie thereby the principle of parity of pay expounded by the Apex Court in **Daily Rated Casual Labour's** case (supra), thus became the apposite underpinnings, thus for the Apex Court in the verdict (supra), rather discountenancing the hereinabove underlined exceptions No. 2 and 3, as became carved by the Full Bench of this Court in **Avtar Singh's** case (supra) while assigning to the various categories of temporary employees, thus the benefit qua theirs becoming entitled to minimum of the pay scales, as drawable by regular employees, hence, from their respective dates of their engagements.

33. In summa, the reliance placed by the learned counsels for the petitioners upon the verdict (supra) rendered by the Apex Court, is a misplaced reliance thereons. Contrarily, the hereinabove extracted impugned directions rather become well harbored upon the verdict rendered by the Apex Court in **Daily Rated Casual Labour's** case (supra), as became also relied upon by the Apex Court in rendering a decision in **State of Punjab and others versus Jagjit Singh's** case (supra).

34. The learned counsels for the petitioners have further argued, that since the Apex Court in para 106 recorded in **State of Bihar versus Bihar Secondary Teachers's** case (supra), has declined to apply the principle of equal pay for equal work to the employees therein. Resultantly, since the verdict (supra) became rendered post the verdict rendered by the



Apex Court in ***Daily Rated Casual Labour***'s case (supra), as such, the verdict (supra) holds the field. However, the reliance placed upon the said verdict also does not well work vis-a-vis the petitioners. Conspicuously, for the reason, that since the learned counsel for the petitioners have completely failed to make any valid onslaught vis-a-vis the inferences which became drawn in the impugned verdict, as carried in Annexure P-1 appended to CWP No. 19280 of 2011. The said inferences are re-extracted hereinafter.

“(i) The applicants shall not be replaced by contractual employees and they shall continue in service till the posts are filled up on regular basis;

(ii) The official respondents are directed to prepare a combined (subjectwise) seniority list of contractual lecturers and they shall be further duty-bound to follow the principle of 'First come, last go' in the matter of engagement of laid off lecturers and also the directions issued by the Coordinate Benches of this Tribunal in Krishan Kumar's case and Santosh Malik's case (supra). The yearly intake of the contractual lecturers shall, obviously, be need-based.

(iii) The clauses, in terms and conditions of the appointment letters issued to the applicants restricting the appointment to a period of eight months and also denying the salary for the vacation period to them, are held to be unconstitutional and are quashed; and

*(iv) In view of the categorical law laid down by the learned Coordinate Bench in **KRISHAN KUMAR VS. UNION TERRITORY OF CHANDIGARH & OTHERS** (supra) (wherein appropriate sustenance was drawn from the view obtained by the Apex Court in **RATTAN LAL & OTHERS VS. STATE OF HARYANA & OTHERS, MUNICIPAL CORPORATION OF DELHI VS. FEMALE WORKERS (MUSTER ROLL) AND ANOTHER** (supra), and also a Division Bench ruling of the Punjab and Haryana High Court*



*in the case of **RAJ BALA VS. STATE OF HARYANA: 2002(3) RSJ(43)**, all the contractual lecturers shall be entitled to minimum of the pay scale of the post, with Dearness Allowance, as admissible from time to time and also the maternity leave to the extent indicated in that judgment (Krishan Kumar's case). The benefit of maternity leave would be available to a female contractual employee, with less than two surviving children. The duration thereof would be the same as has been recommended by the Vith Central Pay Commission.”*

35. Resultantly, when the respondents are qualified in all respects, thus to well adorn the respective posts against which they became employed on a contractual basis, besides when the respondents concerned also underwent the rigours of selection, as became made by a validly constituted selection committee. Moreover when the appointments on contractual basis were made to the posts concerned, only after the said posts becoming advertised and, necessarily when valid sanctions thereto also become granted. Contrarily when in verdict (supra), the employee therein did not satisfy the parameters as relate to (a) well authorized transparent selections being made vis-a-vis the substantive posts which became advertised (b) the selection process, as became engaged into by the recruiting/appointing authority being a validly engaged into selection process. Moreover, when the selected therein employees, did not undergo the process of selection similar to the ones, as was required to be undergone, upon, appointments being made of regular employees against the apposite substantive posts. Therefore, the said distinctivity of process of induction into service respectively of the teachers in case (supra), and, those who were appointed on regular basis against substantive posts, but became the *prima donna* reason rather for the Apex Court in the verdict (supra), hence for declining



to the teachers therein, the espoused parity of pay with the regularly appointed teachers against substantive posts. However, as stated supra, when there is complete similarity inter se the process of induction into service engaged into by the recruiting agency qua the respondents, thus with the processes earlier engaged, and, to be engaged, thus by the recruiting agency for making selections of regular Teachers against the apposite substantive posts. As such, the above inter se distinctivity inter se the facts in case (supra) and the facts at hand but constrains this Court to not apply the verdict (supra) vis-a-vis the facts at hand. Contrarily, this Court is led to apply the mandate recorded by the Apex Court in ***Daily Rated Casual Labour***'s case (supra), vis-a-vis, the facts at hand. Moreover, the sequel of the above unchallenged inferences borne in Annexure P-1 are-

(i) Firstly, that the present petitioners rather than behaving like model employers, to the extent, that despite occurrence of substantive vacancies whereagainst rather regular appointments or substantive appointments of the aspirants concerned, thus were to be made. Moreover, when in the said event the State became obliged to pay them the ordained pay scales. Contrarily, the State merely for saving the incurring of expenditure qua the liabilities towards salaries and other incidental allowances payable to the regularly appointed employees against the advertised vacancies, which are but substantive vacancies, thus appears to deploy an exploitative stratagem, rather merely for depriving the respondents concerned from receiving the salaries and the attendant thereto allowances appertaining to substantive posts. Resultantly the said exploitative stratagem deployed by the employer cannot become countenanced by this Court.



(ii) Secondly for the reason, that if the respondents concerned, underwent the rigour of an unvitiated selection process, besides when they are fully qualified to adorn the respective substantive posts, though on a contractual basis, thereby in terms of the relevant policies for regularization, thus they are required to be considered to be regularized against such posts, thus on anvil of lawfully drawn policies. Consequently, they cannot be ousted through their becoming replaced by contractual employees

(iii) Thirdly, though the Apex Court in ***State of Punjab and others versus Jagjit Singh's*** case (supra) had denied to the employees therein the claimed dearness allowance(s) attaching to the temporary posts concerned, but it is not clear from a reading of the verdict (supra) recorded by Apex Court, whether the employees therein underwent the rigours of an unvitiated selection process, besides when it is also unclear from a reading of the verdict (supra) whether the employees therein were appointed against validly sanctioned posts. If so, the consequent effect thereof is that, the apposite denial made by the Apex Court to the employees therein, but prima facie becoming banked upon the fact that the engaged therein employees, thus became engaged without their unlike the employees in the instant case, undergoing the process of an unvitiated selection process, besides after an advertisement becoming issued, thus inviting applications from the aspirants vis-a-vis sanctioned advertised substantive posts.

36. Consequently, the denial of dearness allowance(s) to the employees concerned, by the Apex Court, but cannot lead to a concomitant denial to the respondents vis-a-vis their espoused claim for dearness allowance(s) attaching to the substantive posts being granted to them.



Therefore, the granting of dearness allowances to the respondents, thus for the reasons (supra) is a well made accordings to them.

37. Lastly, the declaration made by the CAT in Annexure P-3, appended to CWP-1168-2024, whereby the respondent therein became granted the maternity leave benefits, thus is to be also sustained. The reasons being that they are well banked upon the earlier unassailed decision passed by the CAT, besides are well banked upon the recommendations of the 6th Pay Commission.

Final Order

38. The result of the above discussion, is that, this Court does not find any merit in all the writ petitions (supra), and, is constrained to dismiss them. Consequently, all the writ petitions (supra) are dismissed. The impugned verdict(s) passed by the CAT is/are maintained, and, affirmed.

39. The miscellaneous application(s), if any, is/are also disposed of.

**(SURESHWAR THAKUR)
JUDGE**

**(SUDEEPTI SHARMA)
JUDGE**

**August 31st, 2024
Gurpreet**

**Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No**