

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

104+215

CWP No. 6784-2017
Date of decision: 27.02.2024

Rupinder Kaur and ors. ...Petitioners
vs.
State of Punjab and ors. ...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Parvez Chugh, Advocate
for the applicants/petitioners.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY. J.

C.M. No. 12525-2023

Application is allowed as prayed for.

Accordingly, Annexure P-9 to P-12 are taken on record.

Main Case

1. The prayer in the present Civil Writ Petition filed under Articles 226/227 of the Constitution of India, is for directing the respondents to regularize the service of the petitioners on the basis of MPHWP (Female)/ANMs. Further prayer of the petitioners is for quashing the action of the respondents whereby they are not paying minimum of the regular pay scale along with other benefits to the petitioners.
2. Learned counsel submits that pursuant to advertisement of 2008, Annexure P-2, the petitioners were appointed as MPHWP (Female)/ANMs on contract basis between October, 2008 to January, 2009, initially for a period of three years, which is likely to be regularized thereafter. However, on instructions of the petitioners, he restricts the prayer in the petition to only grant of minimum

of the regular pay scale, for which reliance was placed upon the judgment titled as **Rupinder Kaur and others vs. State of Punjab and others**, CWP-17003-2011, decided on 17.05.2017, Annexure P-11, wherein by relying on the judgment of Hon'ble the Supreme Court in a case of State of Punjab and others vs. Jagjit Singh and others, 2016 (4) SCT 641, it was held thus:

“9. The other question that arises for consideration would be whether the petitioners herein who are admittedly working on contract basis as staff nurses can claim the benefit of ‘equal pay for equal work’ on par with staff nurses of the Department of Health And Family Welfare who are regularly appointed ?

10. The law in this regard is well-settled and is no longer res integra. The Apex Court in Jagjit Singh and others case (supra) delineated the law as settled regarding the principle of ‘equal pay for equal work’ and came to hold as under:

“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, adhoc appointees, employees appointed on casual basis, contractual employees and the like), the sole factor that requires our determination is, whether the concerned employees (before this Court), were rendering similar duties and responsibilities, as were being discharged by regular employees, holding the same corresponding posts. This exercise would require the application of the parameters of the principle of ‘equal pay for equal work’ summarized by us in paragraph 42 above. However, insofar as the instant aspect of the matter is concerned, it is not difficult for us to record the factual position. We say so, because it was fairly acknowledged by the learned counsel representing the State of Punjab, that all the temporary employees in the present bunch of appeals, were appointed against posts which were also available in the regular cadre. establishment. It was also accepted, that during the course of their employment, the concerned temporary employees were being randomly deputed to discharge duties and responsibilities, which at some point in time, were assigned to regular employees. Likewise, regular employees holding substantive posts, were also posted to discharge the same work, which was assigned to temporary employees, from time to time. There is, therefore, no room for any doubt, that the duties and responsibilities discharged by the temporary employees in the present set of appeals, were the same as were being discharged by regular employees. It is not the case of the appellants, that the respondent-employees did not possess the qualifications prescribed for appointment on regular basis. Furthermore, it is not the case of the State that any of the temporary employees would not be entitled to pay parity, on any of the principles summarized by us in paragraph 42

hereinabove. There can be no doubt, that the principle of ‘equal pay for equal work’ would be applicable to all the concerned temporary employees, so as to vest in them the right to claim wages, at par with the minimum of the payscale of regularly engaged Government employees, holding the same post.”

11. The law as laid down in Jagjit Singh and others case (supra) is applicable upon the petitioners who are admittedly contractual employees and discharging duties of a regular employee. In view of the above, once the law is settled in this regard that those persons who are daily wager/ adhoc, contractual employees and the like would be entitled to ‘ claim wages, at par with the minimum of the pay-scale of regularly engaged Government employees, holding the same post.’, the same would be made applicable to the petitioners. Moreover an affidavit has been filed in court today of Dr. Dharam Pal, Director Health Services Family Welfare Punjab Chandigarh on behalf of respondents No. 1 and 2, wherein it is submitted that the petitioners under the present civil writ petition are covered with the judgment relied upon in State Of Punjab vs Jagjit Singh, 2016 (4) SCT 641.”

3. Learned State counsel was unable to controvert the factual position and draw out any distinctive aspects in the aforementioned judgments or cite any contrary law.

4. In view of the aforesaid, the present petition is disposed of in terms of the judgments passed in **Jagjit Singh** and **Rupinder Kaur and others** (supra). However, the issue of regularization is left open.

(AMAN CHAUDHARY)
JUDGE

27.02.2024
G Arora

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