

CWP-3158-2012 (O&M) & -1-
CWP-17222-2011 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

222 (02 cases)

CWP-3158-2012 (O&M)
Date of Decision :20.01.2025

Executive Engineer, Water Supply & Sanitation
(Govt. Works) and others ...Petitioners

Versus

Bhupinder Kumar and othersRespondents

CWP-17222-2011 (O&M)

Executive Engineer, Water Supply & Sanitation
(Govt. Works) and others ...Petitioners

Versus

Vir Singh and othersRespondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Ms. Akshita Chauhan, DAG, Punjab
for petitioners-State in both the writ petitions.

Mr. Tahaf Bains, Advocate for the respondent(s)-Workmen
in both the writ petitions.

* * *

Harsimran Singh Sethi, J. (Oral)

1. In the present writ petitions, challenge is to the impugned award dated 13.07.2011 (Annexure P/1) passed in favour of the respondents-Workmen wherein, the respondents-Workmen have been given the benefit of regular salary from the date of their initial appointment.



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2. Learned counsel for the petitioner-State argues that the benefit of regular salary, prior to the date when the services of the Workmen were regularized, is not admissible, which fact has been ignored by the Labour Court while directing the petitioner-State that respondents-Workmen will be given the benefit of regular salary from the date of their initial appointment ignoring the date of regularization of their services hence, the impugned award dated 13.07.2011 (Annexure P/1) is liable to be set aside.

3. Learned counsel for the petitioner-State submits that the benefit of equal pay can only be claimed by a regular employee and the temporary employee cannot claim the said benefit of regular pay scale as admissible to the regular employee.

4. Learned counsel for the respondents-Workmen submits that against the non-grant of the benefit of wages equivalent to the regular employees and keeping them on daily wage basis, was made subject matter before the Labour Court in reference No.28 of 1990 and the Industrial Tribunal, Punjab vide order dated 16.04.1991 (Annexure P/2) granted the employees the benefits of the wages equivalent to one being paid to the permanent employees performing the same nature of duties i.e. the principle of 'equal pay for equal work' and that too from the inception of their employment hence, by the impugned award, only the computation was to be made for the implementation of the said benefit, which was not being implemented by the petitioner-State, though, the judgment of the Labour Court dated 16.04.1991 (Annexure P/2) granting the said benefit was upheld by the Hon'ble Supreme Court of India.

5. I have heard learned counsel for the parties and have gone



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through the record with their able assistance.

6. Once, the Labour Court prior to the regularization of services of the respondents-Workmen, had granted the Workmen benefit of equivalent pay as being granted to the permanent employees performing the same duties from the inception of their employment, which judgment has already upheld up to the Hon'ble Supreme Court of India, the only question is to be decided by the Tribunal is qua the arrears admissible to the respondents-Workmen under the said order.

7. By the impugned award, there is an independent adjudication of the claim as to from which date the respondents-Workmen are to be extended the benefit of regular pay scale. From the facts, which have been mentioned hereinbefore, it is clear that the services of the respondents-Workmen regularized much after the award of the Labour Court dated 16.04.1991 hence, for all intent and purposes, the respondents-Workmen were granted the benefit which was being enjoyed by the permanent employees and that too from the inception of their employment.

8. Learned counsel for the respondents-Workmen submits that the benefit of regular pay scale under the said award of the Labour Court was given for a period up to the year 1995 and as the same was not extended thereafter, hence, the respondents-Workmen had filed application under Section 33C (2) of the Industrial Dispute Act, 1947 for the grant of benefit under the award dated 16.04.1991, which claim has been accepted and the petitioner-State has been directed to implement the award dated 16.04.1991 so as to grant the respondents-Workmen benefit of arrears.

9. That being the factual position, once, benefit was granted by

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the Labour Court to the Workmen qua their entitlement of getting the benefits equivalent to the one being given to the regular employees performing the same duties vide award dated 16.04.1991, impugned award is not a fresh adjudication of the claim but is only for implementation of the award passed by the Industrial Tribunal, Punjab dated 16.04.1991 (Annexure P/2). The petitioner-State having lost upto the Hon'ble Supreme Court of India and the fact that award dated 16.04.1991 has already been upheld, the payments of the arrears cannot be linked to the regularization of the services keeping in view the facts and circumstances of the present case.

10. Keeping in view the above, no ground for interference by this Court is made out and the writ petitions are accordingly dismissed,

11. Civil miscellaneous application pending, if any, is also disposed of.

12. A photocopy of this order be placed on the file of connected cases.

January 20, 2025
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No