



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

214

**CWP-27089-2019 (O&M)
Date of decision: 13.08.2025**

Subhash Singh and others

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. H.S. Saggu, Advocate
for the petitioners.

Ms. Arundhati Kulshreshtha, AAG, Punjab
for respondents No.1 and 2.

Mr. Rishabh Gupta, Advocate
for respondents No.3 to 5.

HARPREET SINGH BRAR J. (Oral)

1. The present petition has been filed to direct the respondent to grant Assured Career Progression (herein after ACP) scheme benefit to the petitioners along with all consequential benefits by counting their past service on parity with other employees who have been granted the benefit of the same by counting their previous service.

2. Briefly, the facts of the case, as alleged, are that, by the order of the Registrar Cooperative Societies, Punjab dated 24.12.2008 (Annexure P-1), 27 cooperative marketing societies were merged with MARKFED. The petitioners were employees of these societies which merged with MARKFED and consequently, the staff working in those societies along with petitioners were absorbed in MARKFED.



3. Learned counsel for the petitioner contends that the Petitioners were given benefit under ACP scheme after counting their service from the date of merger 24.12.2008 and not according to the date of initial appointment in the erstwhile cooperative societies.

4. Further, vide orders in Annexure P-8 and Annexure P-16, two similarly situated employees were given the benefit of ACP scheme after counting their previous service in their respective societies.

5. Learned counsel for the respondent could not controvert to the fact of granting the benefit of ACP scheme to two similarly situated individual vide order in Annexure P-8 and Annexure P-16.

6. A three judge bench of the Hon'ble Supreme Court in ***Prem Singh vs. State of Uttar Pradesh 2019(10) SCC 516*** speaking through Justice Arun Mishra made the following observation.

“33. The question arises whether the imposition of rider that such service to be counted has to be rendered in-between two spells of temporary or temporary and permanent service is legal and proper. We find that once regularization had been made on vacant posts, though the employee had not served prior to that on temporary basis, considering the nature of appointment, though it was not a regular appointment it was made on monthly salary and thereafter in the pay scale of work-charged establishment the efficiency bar was permitted to be crossed. It would be highly discriminatory and irrational because of the rider contained in Note to Rule 3(8) of 1961 Rules, not to count such service particularly, when it can be counted, in case such service is sandwiched between two temporary or in-between temporary and permanent services. There is no rhyme or reason not to count the service of work-charged period in case it has been rendered before regularization. In our opinion, an impermissible classification has been made under Rule 3(8). It would be highly unjust, impermissible and irrational to deprive such employees benefit of the qualifying service. Service of work-charged period remains the same for all the employees, once it is to



*be counted for one class, it has to be counted for all to prevent discrimination. **The classification cannot be done on the irrational basis and when respondents are themselves counting period spent in such service, it would be highly discriminatory not to count the service on the basis of flimsy classification.** The rider put on that work-charged service should have preceded by temporary capacity is discriminatory and irrational and creates an impermissible classification.” (emphasis added)*

6.1. The principle of "equal pay for equal work" is a fundamental constitutional mandate derived from Articles 14 and 16, read along with Directive Principle Article 39(d). While not explicitly a fundamental right, it embodies the constitutional commitment to equality, fairness, and social justice. Any unjustified or irrational differentiation in pay for employees performing identical work under the same employer violates this principle. Such discrimination is inconsistent with the constitutional guarantees of equality before law and equal opportunity in employment, and therefore, cannot be sustained. Upholding this principle is essential to realize the constitutional vision of a sovereign, socialist, democratic republic that ensures dignity and fairness for all workers.

6.2. A Three Judge Bench of the Hon'ble Supreme Court in ***Randhir Singh vs. Union of India, 1982(1)SCC 618*** speaking through Justice O. Chinnappa observed that

“8. It is true that the principle of 'equal pay for equal work' is not expressly declared by our Constitution to be a fundamental right. But it certainly is a Constitutional goal. Article 39(d) of the Constitution proclaims 'equal pay for equal work for both men and women' as a Directive



Principle of State Policy. 'Equal pay for equal work for both men and women' means equal pay for equal work for everyone and as between the sexes. Directive principles, as has been pointed out in some of the judgments of this Court have to be read into the fundamental rights as a matter of interpretation. Article 14 of the Constitution enjoins the state not to deny any person equality before the law or the equal protection of the laws and Article 16 declares that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State. These equality clauses of the Constitution must mean some thing to everyone. To the vast majority of the people the equality clauses of the Constitution would mean nothing if they are unconcerned with the work they do and the pay they get. To them the equality clauses will have some substance if equal work means equal pay. Whether the special procedure prescribed by a statute for trying alleged robber-barons and smuggler kings or for dealing with tax evaders is discriminatory, whether a particular Governmental policy in the matter of grant of licences or permits confers unfettered discretion on the Executive, whether the takeover of the empires of industrial tycoons is arbitrary and unconstitutional and other questions of like nature, leave the millions of people of this country untouched. Questions concerning wages and the like, mundane they may be, are yet matters of vital concern to them and it is there, if at all that the equality clauses of the Constitution have any significance to them. The preamble to the Constitution declares the solemn resolution of the people of India to constitute India into a Sovereign Socialist Democratic Republic. Again the word 'Socialist' must mean something. Even if it does not mean



'To each according to his need', it must atleast mean 'equal pay for equal work'. The principle of 'equal pay for equal work' is expressly recognised by all socialist systems of law, e.g., Section 59 of the Hungarian Labour Code, para 2 of Section 111 of the Czechoslovak Code, Section 67 of the Bulgarian Code, Section 40 of the Code of the German Democratic Republic, para 2 of Section 33 of the Rumanian Code. Indeed this principle has been incorporated in several western labour codes too. Under provisions in Section 31(g.No. 2d) of Book 1 of the French Code du Travail, and according to Argentinean law, this principle must be applied to female workers in all collective bargaining agreements. In accordance with Section 3 of the Grundgesetz of the German Federal Republic, and clause 7, Section 123 of the Mexican Constitution, the principle is given universal significance (vide : International Labour Law by Istvan Szaszy p. 265). The preamble of the Constitution of the International Labour Organisation recognises the principle of 'equal remuneration for work of equal value' as constituting one of the means of achieving the improvement of conditions "involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperiled". Construing Articles 14 and 16 in the light of the Preamble and Article 39(d) we are of the view that the principle 'Equal pay for Equal work' is deducible from those Article and may be properly applied to cases of unequal scales of pay based on no classification or irrational classification though these drawing the different scales of pay do identical work under the same employer."



7. If the organization acknowledges and allows the counting of part service towards ACP for one individual, it must extend the same consideration to the petitioner to uphold the principles of fairness, justice, and equality in service conditions. Denying this benefit without any reasonable basis would undermine trust in the system and lead to unequal treatment among employees in the same organisation.
8. Once the counterpart of the petitioner in the same organisation has been granted the benefit of part service towards ACP benefit, the petitioner cannot be denied the benefit of the same.
9. In view of the discussion above, the present writ petition is allowed. Accordingly, the respondents are directed to release all consequential benefits accrued to the petitioners under the ACP scheme within a period of three weeks from the date of receipt of a certified copy of this order. It is further clarified that duration of service shall be computed from the date of initial appointment of the petitioners in the erstwhile cooperative societies.

(HARPREET SINGH BRAR)
JUDGE

13.08.2025
yakub

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