



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

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Decided on: 06.03.2026**CWP-7-2025**

SHIV SHANKAR AND OTHERS

... PETITIONER(S)

VS

STATE OF HARYANA AND OTHERS

... RESPONDENT(S)

CWP-6699-2025

NAIN SINGH AND OTHERS

... PETITIONER(S)

VS

STATE OF HARYANA AND OTHERS

... RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. R.K.Malik, Sr. Advocate with
Mr. Ankur Sheoran, Advocate
for the petitioners

Mr. Rahul Dev Singh, Addl. AG, Haryana.

Sandeep Moudgil, J.(Oral)

This order shall dispose of above-said two petitions as issue involved in both the petitions is same. Brief facts of the case are taken from CWP-7-2025.

Prayer

1. Prayer in the present petition(s) is for quashing the order dated 27.12.2024 (Annexure P-10) vide which the benefit of minimum scale along with dearness allowance was stopped and direction was issued to recover the



benefit of dearness allowance already granted to the petitioners w.e.f. 01.11.2017.

Factual Background

2. The petitioners were appointed in the year 2005 by the Hospitality Organization, Haryana, to work in the canteen of Haryana Bhawan through a duly constituted selection committee. Despite the perennial nature of their work, they were continued through an outsourcing agency. In the year 2014, the Government decided to take over their services directly from the date of their initial appointment, but this decision was withdrawn in the year 2015, reverting them to outsourcing. Aggrieved, the petitioners approached the High Court, leading to reconsideration of their case, and in the year 2019 they were taken on the rolls of the department with retrospective effect from 05.06.2014 under the outsourcing policy.

3. Pursuant to the policy decision dated 03.11.2017 and judicial pronouncements, the petitioners became entitled to minimum pay scale. In the year 2024, the Court allowed their claim and directed grant of minimum scale with arrears from 01.11.2017, which was implemented along with dearness allowance. However, subsequently, the dearness allowance was withdrawn in December 2024 with orders for recovery, leading to the filing of the present petition.

Contentions

4. Learned Senior counsel for the petitioners would contend that dearness allowance is part of basic pay and needs to be considered as a legal right, which cannot be denied to the petitioners within the four corners of



principle of “equal pay for equal work”. He also refers to the judgment of Division Bench of this Court in ***Sant Longowal Institute of Engineering and Technology, Longowal vs. Ranjit Singh (LPA-1102-2024)*** decided on 22.04.2025 and bunch of other appeals.

5. Learned State counsel submits that dearness allowance has been denied to the petitioners solely relying on the letter dated 03.11.2017 whereby a decision was taken to apply the principle of equal pay for equal work in respect to the employees engaged under Outsourcing Policy Part II of the Government w.e.f. 01.11.2017, that is the category to which the petitioners belong and therefore, dearness allowance has been denied on this premise. Learned State counsel would though defend on behalf of the State urging that in the policy dated 03.11.2017 according to the Clause (i) the contractual pay of such employee like the petitioners shall be entitled to the minimum pay scale of the categories to which they belong but would not be entitled to any of the allowances attached to the post and accordingly, are not granted the benefit of dearness allowance.

6. Heard learned counsel for the parties and perused the relevant material available on record.

Analysis

7. At the outset, the controversy is not one of mere contractual interpretation, but of constitutional fidelity. The State, having consciously extended to the petitioners the minimum of the pay scale attached to the posts in question, cannot, in the same breath, truncate an integral component of that very pay structure by invoking an executive stipulation. The issue, therefore,



must be tested on the anvil of Articles 14 and 16 of the Constitution, read with the settled doctrine of equal pay for equal work.

8. It is now trite that the principle of “equal pay for equal work” is not an abstract moral claim but a constitutional guarantee flowing from Articles 14 and 16 of the Constitution, as consistently affirmed in ***Randhir Singh v. Union of India 1982 (1) SCC 618*** and subsequently crystallised in ***State of Punjab v. Jagjit Singh (2017) 1 SCC 148***. In ***Jagjit Singh (supra)***, the Supreme Court authoritatively held that once employees, even if temporary or contractual, discharge duties identical to those of regular employees, denial of pay parity, at least to the extent of minimum of the pay scale would be impermissible. The relevant extract of the same is here as under:

55. 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.



57. 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.

58. 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.

9. The State's attempt to sever dearness allowance from the minimum pay scale proceeds on a fundamentally flawed premise. Dearness allowance is not a discretionary or peripheral allowance akin to house rent or travel allowance but is intrinsically linked to the concept of wage protection against inflation and forms a component of the pay structure itself. The courts have recognised that dearness allowance is a mechanism to neutralise the erosion of real wages and cannot be artificially detached from the basic pay framework when parity is otherwise granted.

10. Once the State has extended the benefit of the minimum pay scale, it implicitly adopts the pay architecture attached to the post. The argument that contractual employees are entitled only to the "*bare minimum*" of the scale but not to its necessary adjuncts is internally inconsistent. The minimum pay scale is not a numerical abstraction, it is a structured concept comprising basic pay together with such components as are inseparably linked to it. To grant one while denying the other is to create a truncated and legally unsustainable classification. Guidance may be drawn from ***Bahadur Singh***



and ors. vs Jaspreet Kaur Talwar and ors. 2022 SCCOnline Supreme Court

1077, the relevant extract of the same is reproduced as under:

3. Paragraph 55 of the decision in Jagjit Singh (supra) was to the following effect:

"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 [Avtar Singh v. State of Punjab, 2011 SCC OnLine P&H 15326 : ILR (2013) 1 P&H 566] , 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 v. Rajinder Singh [State of Punjab v. Rajinder Singh, 2009 SCC OnLine P&H 125] is also liable to be set aside, and the same is also hereby set aside. We affirm the decision rendered in State of Punjab v. Rajinder Kumar [State of Punjab v. Rajinder Kumar, 2010 SCC OnLine P&H 13009], with the 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."

4. Notably, the expression "pay" was considered by this Court in Contempt Petition (Civil) Nos.699-700 of 2015, Tej Singh and Others v. Sarvesh Kaushal and Ors., arising out of decision dated 11.12.2015 in Grah Rakshak, Home Guards Wel. Asso. v. State of H.P. & Others and connected matters, Civil Appeal No.2759 of 2015 Etc. In its order dated 04.05.2016 passed in said Contempt Petitions, this Court observed:

"After hearing learned counsel for the parties, we are of the opinion that the expression "minimum of the pay" mentioned in paragraph 22 is intended to mean not only the basic pay + grade pay, but also the dearness allowance that comes along with the basic pay and grade pay. This is in the context of the view expressed by this Court denying regular appointments to the petitioners, while taking into consideration the fact that the services of the Home Guards are used during an emergency and for other purposes and at the time of their duty they are empowered with the power of police personnel.

Accordingly, we make it clear that the word "minimum of the pay" used in paragraph 22 of the judgment and order dated 11th



March, 2015 means the basic pay + grade pay + dearness allowances + washing allowance."

11. The Division Bench judgment of this Court in ***Sant Longowal Institute of Engineering and Technology, Longowal vs. Ranjit Singh (LPA-1102-2024)*** decided on 22.04.2025 further reinforces this position, wherein the principle of parity was not read in a narrow or pedantic manner but in a purposive sense, ensuring that employees are not deprived of legitimate components of pay under the guise of contractual classification.

12. The reliance placed by the State on the communication dated 03.11.2017 does not advance its case. Firstly, the said communication is, in substance, an executive instruction and not a statutory rule framed under any enabling provision. It is well settled that executive instructions cannot override constitutional mandates or judicially recognised rights. Secondly, even a policy decision must satisfy the test of non-arbitrariness and a classification which grants the minimum pay scale but denies an essential component of that scale, without any intelligible differentia having a rational nexus to the object sought to be achieved, falls foul of the equality clause.

13. The contention that contractual employees are, by definition, disentitled to allowances also does not withstand scrutiny. The Supreme Court in ***Jagjit Singh (supra)*** expressly rejected such a rigid distinction, holding that the nature of employment -temporary, contractual, or casual cannot be used as a device to deny benefits that flow from the nature of duties performed. What is determinative is the work performed, not the label attached to the employment.



14. Equally untenable is the direction for recovery of dearness allowance already paid. The law on recovery from employees, particularly where payments have been made without misrepresentation or fraud, stands settled by the Supreme Court in *State of Punjab v. Rafiq Masih 2015 (4) SCC 334*. It has been categorically held that recoveries from employees in such circumstances are impermissible, especially when they would result in undue hardship. The petitioners, having received the benefit in good faith and in pursuance of the State's own decision, cannot now be subjected to recovery on the basis of a subsequent reinterpretation.

15. Viewed thus, the State's action in denying dearness allowance while simultaneously granting the minimum pay scale results in a constitutional incongruity. It creates a class of employees who perform identical duties, receive ostensibly the same pay scale, yet are deprived of an essential component of that scale an outcome that is manifestly arbitrary and violative of Articles 14 and 16 of the Constitution of India.

14. In sum, the impugned order dated 27.12.2024 (Annexure P-10) suffers from a dual infirmity as it misconstrues the legal character of dearness allowance as something severable from the minimum pay scale. Thus, the denial of dearness allowance, and the consequential recovery cannot be sustained in law.

16. In view of the above observations, the impugned order stands quashed and the present petition(s) stands allowed. The recovery, if any, effected from the petitioners shall be refunded back to them along with interest



@ 6% per annum from the date it was recovered till the date of its actual realisation.

- 17. Pending application, if any, shall also stands disposed of.
- 18. Photocopy of this order be placed on the file of connected matter.

06.03.2026
anuradha

(SANDEEP MOUDGIL)
JUDGE

Whether speaking/non-speaking?	Yes/No
Whether reportable?	Yes/No