

(2021) 02 P&H CK 0344

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 496 Of 2021(O&M)

Harmel Singh And Others

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 17-02-2021

Acts Referred:

Citation : (2021) 02 P&H CK 0344

Hon'ble Judges : Anil Kshetarpal, J

Bench : Single Bench

Advocate : Pawan Kumar Mutneja, Nikhil Chopra, Saurabh Kapoor

Final Decision : Dismissed

Judgement

Sr.

No",Name,"Father's

Name",DOB,"Appointment

date",Post

1.,Sh. Harmel Singh,"Sh.Malkit

Singh",04.10.1983,23.05.2006,"Computer

Operator

2.,Sh. Ashok Kumar,"Sh. Sukhbir

Kumar",13.3.1979,Dec. 1998,Safai/Sewak

3.,Sh.Balwinder Singh,"Sh. Ajit

Singh",17.7.1976,23.1.2017,"Security

Guard

4.,Sh. Raju Khan,"Sh. Zalil

Khan",12.1.1981,"June, 1999",Mali

5.,Sh. Jagga Singh,"Sh.Teja

Singh",02.02.1962,1998,"Security

Guard

6.,Sh. Om Parkash,"Harbans

Tiwari",Year 1961,1999,Mali

petitioners. None of the petitioners had completed 10 years of service on the date when judgment (10.04.2006) in Uma Devi's case (supra) was,,,,,

delivered. As noticed above, petitioner no.1 and 3 came to be appointed after the judgment in Uma Devi's case whereas petitioner no.2, 4, 5, 6 were",,,,,,

appointed before the judgment in Uma Devi's case. Still further, the respondent is only a Society. In such circumstances, in the absence of a policy or",,,,,,

any rules or regulations, the Court does not find it appropriate to issue directions, particularly, in view of the judgment passed by Five Judges in Uma",,,,,,

Devi's case (supra). It may be noted here that the petitioners have not pleaded that there are any sanctioned posts against which the petitioners are,,,,,

working. The petitioners have not pleaded as to how and in what manner they came to be appointed.,,,,,,

Next relief sought by the petitioners is with respect to payment of salary equivalent to the employees working with the Department of Defence,,,,,

Services Welfare, Punjab. It may be noted here that the aforesaid Department is a Department of the State and its employees are public servants." ,,,,,,

Whereas the petitioners are only temporary employees of the Society. The petitioners cannot claim to be public servants merely because the Society is,,,,,

an instrumentality of the State. In any case, the employees of a Department constitute a different category. Learned counsel for the petitioners relies" ,,,,,,

upon the judgment passed in State of Punjab vs. Jagjit Singh (2017) 1 SCC 148 to contend that on the basis of the principle of equal pay for equal,,,,,

work, the petitioners are entitled to be paid an equal pay. This Court has carefully read the judgment in the case of Jagjit Singh's case (supra). It may" ,,,,,,

be noted here that the aforesaid judgment is not related to the employees of different employers. The principle of equal pay for equal work has not,,,,,

been ordered amongst the employees of different organizations. Still further, the Supreme Court in a subsequent judgment in State of Bihar and others" ,,,,,,

vs. Bihar Secondary Teachers Struggle,,,,,

Committee, Munger and others (2019) 18 SCC 301 has considered the judgment in Jagjit Singh's case (supra) and laid down as under:-",,,,,

â??96. Analysis of the decisions referred to above shows that this Court has accepted the following limitations or qualifications to the applicability of,,,,,

the doctrine of â??equal pay for equal workâ??:,,,,,

96.1. The doctrine of â??equal pay for equal workâ?? is not an abstract doctrine.,,,,,

96.2. The principle of â??equal pay for equal workâ?? has no mechanical application in every case.,,,,,

96.3. The very fact that the person has not gone through the process of recruitment may itself, in certain cases, make a difference.",,,,,

96.4. The application of the principle of â??equal pay for equal workâ?? requires consideration of various dimensions of a given job.,,,,,

96.5. Thus, normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a",,,,,

writ court can lightly interfere.,,,,,

96.6. Granting pay scales is a purely executive function and hence the court should not interfere with the same. It may have a cascading effect,,,,,

creating all kinds of problems for the Government and authorities.,,,,,

96.7. Equation of posts and salary is a complex matter which should be left to an expert body.,,,,,

96.8. Granting of pay parity by the court may result in a cascading effect and reaction which can have adverse consequences.,,,,,

96.9. Before entertaining and accepting the claim based on the principle of equal pay for equal work, the Court must consider the factors like the",,,,,

source and mode of recruitment/appointment.,,,,,

96.10. In a given case, mode of selection may be considered as one of the factors which may make a difference.â??"",,,,,

In view of the aforesaid recent pronouncement of the Hon'ble Supreme Court, it is apparent that the writ Court is not expected to equate the posts for",,,,,

the purpose of salary.,,,,,

In view of the aforesaid, no ground to issue the directions as prayed for is made out.",,,,,

Hence, the writ petition is dismissed." ,,,,,,