(1998) 08 P&H CK 0028

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 10017 of 1995

Kulbir Singh and Others APPELLANT

Vs

The State of Punjab and Others RESPONDENT

Date of Decision : 20-08-1998

Acts Referred:

Citation : (1998) 120 PLR 718

Hon'ble Judges : T.H.B. Chalapathi, J

Bench : Single Bench

Advocate : K.L. Arora, for the Appellant; Alka Chatrath, for the Respondent

Final Decision : Allowed

Judgement

T.H.B. Chalapathi, J.—The present case is squarely covered by the judgment of the Apex Court in C.A. No. 4492 of 1997 (State of Punjab and Ors. v. Devinder Singh and Ors.) dated 21.7.1997.

2. The petitioners have been appointed as Octroi Clerk by the 2nd respondent on daily wages. Admittedly, the pay scale of a regular Octroi Clerk is Rs. 950-1800 with a basic start of Rs. 1,000/-. The petitioners are claiming the minimum of the pay scale available to the regular Octroi Clerk employed by the 2nd respondent. The Apex Court in its judgment in Civil Appeal No. 4492 of 1997, dated 21st July, 1997 directed that the daily wagers will be entitled to get the minimum of the pay scale available to the ledger keepers and ledger clerk with permissible allowance on that basis and difference between the emoluments already paid to each of the respondents and those payable to them, will be paid to the respondents for a period of three years prior to the filing of the writ petition. The petitioners before the Supreme Court who were on non-muster roll, were appointed on daily wages in this case.

3. The learned counsel for the 2nd respondent argued that the Supreme Court held in Ghaziabad Development Authority and Ors. v. Vikram Chaudhary and Ors. J.T. 1995 S.C. 636) that the temporary daily wage employees are not entitled to

the pay on par with regular employees. But a reading of that case clearly shows that it relates to an appointment of daily wage employees in a project on contract basis. It has been held therein that on completion of existing project in which the employees were working, their services have to be terminated. If any fresh project has been undertaken, instead of taking services of fresh hands at the places of new project, the existing temporary daily wagers may be employed by giving preference to those displaced employees. It this situation it has held that question of making pay on par with regular employees does not arise. Therefore, the decision relied upon has no application to the facts of the present case. State of Rajasthan Vs. Kunji Raman, , is also a case of daily wager employed in a project in which it was held that the work charged establishment cannot be treated on par with regular establishment. Whenever, the work comes to end, the services of the workcharged employees have to be terminated. It has been specifically held by the Supreme Court in that decision that from the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. Thus, a work-charged establishment is materially and qualitatively different from a regular establishment. That case has no application to the facts of the present case because the petitioners in the present case have not been employed on any work charged establishment or on contractual basis. The work is there and they are discharging the same work as is done by the regular employees. Therefore, the respondents cannot take advantage of the above decision. The other decision relied upon by the learned counsel for the respondents is State of Haryana Vs. Jasmer Singh and others, . That case does not deal with the employees working in the same organisations or in the same department. In that case, the petitioners claimed salary on par with regular employees holding similar posts in the service of the State of Haryana but herein the petitioners are claiming parity with regular employees holding the same posts and not of similar posts of other departments. Therefore, the decision in the State of Haryana''s case (supra) has no application to the facts of the case on hand, I am of the view that the present case is squarely covered by the decision of the Apex Court in State of Punjab and Ors. v. Devinder Singh and Ors., in Civil Appeal No. 4492 of 1997 dated 21st July, 1997.

4. Accordingly, I allow the writ petition and direct the respondents to pay the I minimum pay scale to the petitioners as is available to the regular Octroi Clerks with permissible allowances on that basis and the difference between the emoluments already paid to each of the petitioners shall be paid for a period of three years prior to the filing of the writ petition i.e. from 12.2.1992. The arrears, so calculated, shall be paid within four months. There will be no order as to costs.