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**(2017) 03 AHC CK 0066**

**In the Allahabad High Court**

**Case No :** C.M. Application No. 31574 of 2017 in Special Appeal Defective No. 129 of 2017

Phool Chandra Pandey

APPELLANT

Vs

State of U.P.

RESPONDENT

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**Date of Decision :** 27-03-2017

**Acts Referred:**

**Citation :** (2017) 2 AllWC 2152

**Hon'ble Judges :** Amreshwar Pratap Sahi and Sanjay Harkauli, JJ.

**Bench :** Division Bench

**Advocate :** Deep Narayan Tripathi, Advocate, for the Appellant; C.S.C., Satyanshu Ojha, Advocate, for the Respondent

**Final Decision :** Allowed

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## Judgement

Amreshwar Pratap Sahi and Sanjay Harkauli, JJ.— Heard learned counsel for the appellant and Sri Satyanshu Ojha for the respondent-University.

2. This appeal questions the correctness of the judgment of the learned Single Judge dated 31.5.2016 whereby the petitioner has been denied the claim of minimum of the pay scale on the ground that such benefit which has been claimed is an abstract claim and, therefore, in view of the judgment in the case of Anil Kumar and others v. State of U.P. & others, 2015 (33) LCD 239 the appellant-petitioner was not entitled to the said benefits.

3. We have considered the submissions raised and what we find from the petition is that petitioner was claiming a specific relief to the effect that one Smt. Mithilesh Pandey who was junior to the petitioner was getting the minimum of pay scale whereas the said benefit was denied to the petitioner, even though the petitioner was working since 1996 whereas Smt. Mithilesh Pandey has been working since year 2000. Certain orders passed by this Court had also been relied to substantiate such claims. The contention of the learned counsel for the appellant is that the aforesaid facts were not abstract and were specific reliefs

that have not even been referred to by the learned Single Judge.

4. On a consideration of the aforesaid submissions we find that the learned Single Judge has not noticed the aforesaid facts while treating the claim of the petitioner to be abstract on the strength of the judgment which has been relied upon in the impugned judgment which cannot be sustained.

5. Learned counsel for the University submits that several types of orders are operating for payment of such employees who are working on daily wages, that of "Minimum pay Scale", that of "Minimum Pay Scale with Dearness Allowance", that of "Minimum of the Pay Scale according to actual working of the employee in a month", and "Minimum of the Pay Scale without any deduction on monthly basis".

6. Thus, several types of orders which are operating in relation to writ petitions that are pending in this Court and are all orders on interim basis. Consequently, the University is unable to apply any uniform principle. More so, in the wake of the fact that most of such employees have been engaged on daily wages against projects for which there is no regular grant of salary. The University has been requesting the Central Government or the concerned authorities for funding the same to provide minimum of the pay scale but unless such funds are received the same cannot be a liability on the funds of the University. He, therefore, submits that such issues should be disposed off finally by clubbing all such claims in relation to daily wage employees so that the University may be able to follow an uniform policy for making payment to daily wage employees.

7. Having considered the submissions raised we set aside the judgment dated 31.5.2016 and allow the appeal with a direction to the University to file counter affidavit to the writ petition giving rise to the writ petition within three weeks. The appellant will file a response within one week thereafter.

8. Writ Petition No. 12936(S/S) of 2016 shall stand restored to its original number and shall now be listed for appropriate orders along with W.P. No. 12357 (S/S) 2016 and such similarly connected writ petitions before the appropriate Bench in the next cause list.

9. The appeal is allowed with the aforesaid directions.