
(1994) 07 P&H CK 0095
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 9030 of 1988

Shri Ashwani Kumar and Others

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 06-07-1994

Acts Referred:

Constitution of India, 1950 — Article 12, 14, 16, 226, 39

Citation : (1994) 108 PLR 555

Hon'ble Judges : G.S. Singhvi, J

Bench : Single Bench

Advocate : R.S. Dass, for the Appellant; A.K. Walia, DAG, for the Respondent

Final Decision : Allowed

Judgement

G.S. Singhvi, J.—These two petitions can appropriately be disposed of by a common order because they raise an identical question for determination by the Court. Before coming to the legal issue, it is proper to set out a few facts.

2. All the petitioners in the two petitions were appointed in the service of Punjab Roadways as Ticket Verifiers. Of them petitioners Nos. 1 to 6 in Civil Writ Petition No. 9030 of 1988 were regularised with effect from 15.1.1986 while petitioners No. 7 to 11 in the said petition were regularised with effect from 21.3.1986. Two of the thirteen petitioners namely Smt. Narinder Kaur and Smt. Neelam Kumari were! employed as Ticket Verifier on compassionate ground because their husbands had died while in the service of Punjab Roadways. At the time of entry into service; the petitioners were paid as daily wagers and even after regularisation, petitioners No.1 to 11 in CWP No. 9030 of 1988 continued to be paid as daily wagers. The petitioners have claimed that as Ticket Verifier, they have been discharging duties which are identical to the duties being performed by holders of corresponding posts in the service of Pepsu Road Transport Corporation and Haryana Roadways Transport Corporation and even though employees of these two agencies are being paid salary in the regular time scale, they are being paid as daily wagers. They have stated that as Ticket Verifiers,

they perform the duties of checking the ticket books checking of advance ticket dockets issued to the conductors, stamping of way bill etc. Their further duties are to ensure that copies of the tickets of all denominations are issued to the Sub-stock Incharge of the Depot and that conductors of the buses get tickets of all the States through which the buses of the Punjab Roadways pass. The petitioners, have given detail of the quantum of duties which they perform every day but it is not necessary to give details of these duties because the respondents have not contested this part of the statement contained in the writ petition. The petitioners have pleaded that notwithstanding similarity in the nature of duties performed by them, benefit of principle of "equal pay for equal work" has not been extended to them and in this manner they have been discriminated. Another plea of the petitioners is that after regularisation of service, there is no justification for paying them salary as daily wagers. Reference has been made to an order dated February 17, 1988 passed by this Court in CPW No. 4743 of 1986, Randhir Singh v. State of Haryana wherein this Court has held that Ticket Verifiers are entitled to be paid salary in the regular time scale. For petitioners No.12 and 13, an additional plea has been raised namely that even though they have rendered sufficiently long service, respondents have not taken any step for regularisation of their service. In the other writ petition, pleadings are almost identical except that although decision for regularisation of services of the petitioners had been taken by a duly constituted selection committee, that decision has not been effectively implemented by the respondents.

3. Return has been filed by the respondents in CWP No.9030 of 1988 and they have contested the claim of the petitioners on the premise that the posts of Ticket Verifiers are not regular posts and the Ticket Verifiers are paid from the contingent fund. According to the respondents, in the absence of availability of regular posts, petitioners cannot claim benefit of regular pay scale of regularisation in service and they cannot be treated as regular employees. They respondents have, however, not seriously controverted the statement made by the petitioners regarding the nature or their duties and also that this court has in CWP No. 4743 of 1986 decided on 17.2.1988 issued direction for payment of salary to those petitioners in the regular time scale in consonance with the principle of "equal pay for equal work".

4. The first and foremost issue which requires determination is as to whether the petitioners have been discriminated and their right of equality guaranteed under Articles 14 and 16 has been infringed by respondents by continuing them as daily wagers and by denying them benefit of principle of "equal pay for equal work". The second issue which requires determination is as to whether the respondents are justified in withholding regularisation of service of petitioners No. 12 and 13 in CWP No. 9030 of 1988 and petitioners in CWP No. 8959 of 1989.

5. For deciding the first issue it is necessary to mention that as on date of filing of the writ petitions, the petitioners had served for 2 to 3 years but by now they

have rendered 7 to 8 years of continuous service. The factual matrix of the two cases unequivocally established that the petitioners have been working as whole time employees; their work is of regular nature and their duties are qualitatively and quantitatively identical to the duties being performed by Ticket Verifiers employed in the services of Pepsu Road Transport Corporation and Haryana Roadways Transport Corporation. Further more, there is no dispute between the parties that employees of the two Roadways are being paid salary in the regular time scale.

6. Before proceeding further, I must observe that Haryana Roadways Transport Corporation as well as Pepsu Road Transport Corporation are creature of Statute namely The Road Transport Act, 1950". However, notwithstanding their independent statutory existence, these bodies are agencies/instrumentalities of the State and they fall within the ambit of the expression "other authorities" under Article 12 of the Constitution of India. It is not necessary for me to make a detailed examination regarding the status of the two Roadways in view of the various pronouncements of the Supreme Court including Sukhdev Singh, Oil and Natural Gas Commission, Life Insurance Corporation, Industrial Finance Corporation Employees Associations Vs. Bhagat Ram, Association of Clause II. Officers, Shyam Lal, Industrial Finance Corporation, , Ramana Dayaram Shetty Vs. International Airport Authority of India and Others, , Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others, , Central Inland Water Transport Corporation v. Brojo Nath Ganguli AIR 1986 S.C. 1751, and full Bench decision of Rajasthan High Court in Bhawar Lal v. Rajasthan State Road Transport Corporation 1984 RLR 619 .

7. A look at Annexure P/2 shows that petitioners Avtar Singh and Ashwani Kumar (in C.W.P.NO. 9030 of 1988) were regularised in service against vacant posts of Ticket Verifiers. A perusal of Annexures P/3 and P/4 further shows that departmental committee had met for regularisation of the service of ad hoc employees of Jalandhar Division as early as in January, 1986 and when order for regularisation of the service of the employees was passed, it was clearly stipulated that regularisation of service was against a post which was temporary in character. A further look at the conditions incorporated in Annexure P/4 which are reproduced below incorporated in the said order which could properly be incorporated in the appointment order issued in favour of a regularly selected person:

"1. The post on which he is being regularised is absolutely temporary.

2. His services can be terminated at any time giving one month's notice or he can be removed from service by paying the salary in lieu thereof and the approved allowances or if the period of notice will be less than one month, then he will be paid salary and allowance for the such period, the time which will be deficient in this notice.

3. If any time he wants to resign from this service, then it will be necessary/

essential for him to give one month's notice of for leaving the service immediately, he will have to pay the salary for one month including all the allowances. In such a situation, it will be necessary to obtain a "No objection Certificate" from the concerned officer at the time of relieving.

4. He will have to give it writing that before this he is working in this department or in the any other department of the Punjab Government and if, yes, due to which reasons he was forced to leave the previous-service.

5. In case of your being married, your one wife is alive/you are not married with such a person, who has more than one wife. If you have more, than one wife then you will have to prove the necessity of for your appointment in case of your having living wife more than one.

6. He will have to take an oath for the loyalty to the Indian Constitution.

7. This appointment letter is being given to him in this situation that if his previous conduct and character is not verified to be good, then he will be removed from service without serving any notice. Then in this situation, condition No. 2, will not be applicable in his case.

8. This appointment letter is being issued to him in this situation that he is medically fit for appointment to the Government service. In case he is found medically unfit, his services can be terminated forthwith."

It is thus clear that vacant posts of Ticket Verifiers were available with the respondents at the time of meeting of the Committee for the purpose of considering the case of the petitioners for regularisation of service. Against these posts, the petitioners have been appointed as whole time employees and as already observed they have been working continuously for the last 7 to 8 years. This all is indicative of the fact that petitioners are being paid on daily wages notwithstanding the fact that they are working against vacant posts; some of them have been regularised in service and their work is not of intermittent nature and also that their duties are identical to the duties of Ticket Verifiers employed in the two Roadways.

9. While Shri R.S. Dass counsel appearing for the petitioners in C.W.P. No. 9030 of 1988 argued that in view of similarity in the nature of duties and in view of the fact that some of the petitioners have been regularised in service, they have a legal as well as constitutional right to be paid salary in the regular time scale and the denial of wages to them in regular pay scale amounts to infringement of their fundamental right of equality before law as enshrined in Articles 14 and 16 read with Article 39(d) of the Constitution of India, Shri A.K. Walia learned Assistant Advocate General, Punjab on the other hand contended that in the absence of availability of regular posts, the petitioners cannot be ordered to be paid salary in the regular pay scale on the strength of principle of "equal pay for equal work, Shri Walia further contended that merely because Ticket Verifiers employed in the Pepsu Road Transport Corporation and Haryana Roadways Transport

Corporation are being paid salary in the regular pay scale, the respondents cannot be compelled to follow the suit. He submitted that when the employees are working under different employers, the principles of "equal pay for equal work" cannot be enforced.

10. I have given my thoughtful consideration to the rival submissions and perused the record.

11. On 26th day of January, 1950 Constitution of India was enforced and India was declared to be Sovereign Socialist Secular Democratic Republic. The word "Socialist" came to be added to the preamble of the Constitution by the Constitution (Forty Second Amendment) Act, 1976. Preamble of the Constitution of India reads thus:-

"We, the people of India, having solemnly resolved to constitute India into a Sovereign Socialist Secular Democratic Republic and to secure to all its citizens; JUSTICE, social, economic and political; Liberty of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all Fraternity assuring the dignity of individual and the unity and integrity of Nation."

12. Part III of the Constitution (Articles 12 to 36) contain fundamental rights and part IV, enumerate the directive principles of State Policy. Article 14 speaks of equality before law. Article 16 speaks of equality of opportunity in matters of public employment. It is thus clear that Article 14 is genus while Article 16 is one of its species. A careful reading of various Articles of Part III of the Constitution shows that most of them contain negative injunctions against the State. At the same time a close scrutiny of various Articles contained in part IV of the Constitution shows that they contain positive, social obligations of the State, Articles 38 to 51 of part IV enjoins upon the State to formulate its policy and apply the principles contained in those Articles while enacting laws. These provisions are intended to bring out a situation where weaker sections of the society can be brought to a position in which all people become equal and are in a position to share equal responsibilities and rights.

13. During debate in the constituent assembly, one of its member Shri K. T. Shah presented a note on fundamental rights on December 23, 1946. Some of the portion of this note which are quoted below are quite instructive and indicative of intention of the framers of the Constitution and the background in which this country adopted a Constitution with parts III and IV:

"Let us now proceed to consider what rights are, and how they are to be observed in practice, and enforced. The most convenient method for appreciating these rights would be to divide them into some definite categories, which would comprise almost every one of the rights or privileges that have been incorporated hitherto in the individual Constitutions, and also referred to in the United Nations Charter. The most important categories are; (1) Civil Rights, (2)

Political Rights, (3) Economic and Social Rights.

To these one more class of Scientific Rights is added by some in the interest of proper publicity. This is not quite an exhaustive classification. For practical purposes, however, it is sufficient.

Notwithstanding this classification, there are certain vital rights common to all men irrespective of their nationality race, sex, speech or religion, which constitute the very foundation of all these rights included in the several categories. The right to life for example is at the root of all this idea.

This does not merely mean the sanctity of either human or animal life, which must not be infringed by any other human being except for stated reasons or by due process of law. It means also the fullest opportunity to develop one's personality and potentiality to the highest level possible in the existing stage of our civilization. Life, that is to say, the mere right to exist, will have little value, if it is to be bereft of any opportunity to develop or bring out what is in every man or woman. It follows inevitably that the right to live is the right to live decently as a member of a civilized society and have all the freedom and advantages that would go to make life agreeable, and, living assured in a reasonable standard of comfort and decency. This right and all it implies cannot be conditioned or restricted except by its own corresponding obligations.

Being the basis for all other rights, the right to life naturally will require adequate and effective protection, guarantee, or safeguard included in the Constitution, or in the Civil or Criminal Procedure Codes, or the laws of social order under which any given member of humanity lives.

The same may also be said of the Right to Equality, which is an indispensable prerequisite of proper system of justice, and due respect for human personality. Here also the term by itself is likely to be misconceived or interpreted unduly narrowly, if it is not added that equality is not merely equality of treatment before the established system of Law and Order but also of opportunity for self-expression or self-realization that may be inherent in every human being. One important condition for the due maintenance of such equality is that no restriction be placed in such matters on any human being on the ground of Sex, race, speech, creed or colour. All these have in the past been used as excuses for exclusiveness, which must go if equality is to be real and effective for all persons. It would also imply equality in the matter of thought and expression, which are conveniently described as Freedom of Conscience of expression or of Association. That will be considered more fully when we come to the special categories to which these belong.....

Though these rights are described as Civil Rights they are not necessarily confined to citizens only; but may well be regarded as the rights of humanity in general. It is in this group that the right to life and its fullest development or expression would be in an individual Constitution included. So far, however, as the mere sanctity of life is concerned it applies to both citizens and strangers.

But so far as enabling individuals to enjoy the fullness of life and opportunities for self-expression or self-realisation are concerned, they involve considerable outlay on the part of the State to provide the necessary facilities, by way of education, health, entertainment, and the like, and the wherewithal for such outlay will come principally, if not entirely, from the citizens.....

These rights, it may be added, from the corresponding obligations of the State with guarantees them. Thus, for instance, the very basic right to life or liberty requires that the State keep up sufficient machinery at its disposal to prevent any would be aggressor aiming at the life or liberty of any one in the community. The right to work, again or employment necessitates such organisation of the resources of the country, in a plan, as would secure adequately, remunerative work for all citizens. The right to health and education pre-supposes the establishment and maintenance of sufficient schools, colleges, libraries and laboratories; as well as hospitals nursing homes, dispensaries and medical and nursing services for treating and preventing disease, which only the State or its delegate can provide for all effectively."

14. The above abstracted portion of the note of Shri Shah shows that framers of the Constitution were clear in their mind that State shall be under an obligation to take all steps necessary for creating a situation where all can enjoy fundamental rights. A reading of preamble to the Constitution with provisions of parts HI and IV of the Constitution clearly shows that the people of the country have decided that a system should be brought into existence where all citizens will get justice, social, economic and political and there will be equality of status and opportunity. The principle of "equal pay for equal work" enshrined in Article 39(d) and towards which the State is obliged to direct its policy is nothing more than an amplification of a part of preamble to the Constitution. Equality in all sphere of life is a goal set out, in the Constitution and, therefore, it is proper for the Court to enforce the principles enumerated in various Articles of the Constitution as far as possible by reading them as integral part of the fundamental rights contained in the part III of the Constitution. This is precisely what has been done by the Supreme Court in Randhir Singh Vs. Union of India (UOI) and Others, . In that case, a driver-constable in the Delhi Police Force under Delhi Administration made a claim for the grant of scale of pay at par with other drivers in the service of Delhi Administration. While accepting his plea their Lordships of the Supreme Court observed;

".....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 Articles and may be properly applied to cases of unequal scales of pay based on no classification or irrational classification though those drawing the different scales of pay do identical work under the same employer."

The decision of the Supreme Court in Randhir Singh's case has become a landmark of the Indian Legal System and principles indicated therein have been consistently followed for the last more than one decade. In Dhirendra Chamoli

and Another Vs. State of U.P., , Surinder Singh and Another Vs. Engineer-in-chief, C.P.W.D. and Others, , R.D. Gupta and Others Vs. Lt. Governor, Delhi Admn. and Others, , Bhagwan Dass and Others Vs. State of Haryana and Others, , Jaipal v. State of Haryana 1988 (3) S.C.C. 354 , The Dharwad Distt. P.W.D. Literate Daily Wages Employees Association and others, etc. Vs. State of Karnataka and others etc., , G. C. Agarwal v. CIT . Employees of Tannery and Footwear Corporation of India Ltd. and another Vs. Union of India and others, are some of the judgments in which the principle laid down in Randhir Singh's case has been applied to extend the benefit of principle of "equal pay for equal work" to the employees.

15. In Dharwad Distt. P.W.D. Literate Daily Wage Employees Association's case (supra), the Supreme Court observed :

"Equal pay for equal work and providing security for service by regularising casual employment, within a reasonable period have been unanimously accepted by the Supreme Court as a Constitutional goal to our socialistic polity. What the Supreme Court has said by interpreting law on this subject would be binding on the instrumentalities of the State-be it of the centre or the State-by virtue of Article 141. The philosophy of the Court as evolved in various cases is not that of the Court but is ingrained in the Constitution as one of the basic aspects and if there was any doubt on this there is no room for that after the preamble has been amended and the Forty Second Amendment has declared the Republic to be a socialist one. The relevant constitutional philosophy must be allowed to become a part of every man in this country; then only would the Constitution reach every one and he or she would be nearer the goals set by it."

16. In Grih Kalyan Kendra Workers" Union Vs. Union of India and others, , the Supreme Court once again reiterated that principle of "equal pay for equal work" has to be enforced by States and its agencies. Their Lordships held that:-

"Equal pay for equal work is not expressly declared by the . Constitution as a fundamental right but in view of the Directive Principles of State Policy as contained in Article 39(d) of the Constitution "equal pay . for equal work" has assumed the status of fundamental right in service jurisprudence having regard to the constitutional mandate of equality in Articles 14 and 16 of the Constitution. "Equal pay for equal work" and providing security for service by regularising casual employment within a reasonable period has been accepted by the Supreme Court as a constitutional goal to our socialistic pattern. It has ceased to be a Judge made law as it is the part of the constitutional philosophy which ensures a welfare socialistic pattern of a State providing equal opportunity to all and "equal pay for equal work" for similarly placed employees of the State. The Supreme Court has zealously enforced the fundamental right of "equal pay for equal work" in effectuating the constitutional goal of equality and social justice. Therefore, the principle of "equal pay for equal work" even in an establishment which is an instrumentality of a State is applicable to its full vigour."

17. In *Randhir Singh and Ors. v. State of Haryana* 16 1988 (2) S.L.R. 156, this court was concerned with the claim of Ticket Verifiers who are employed on daily wages, in Haryana Roadways Transport Corporation. While accepting the claim of the Ticket Verifiers, for grant of salary in the regular pay scale, this Court pointed out that the posts of Ticket Verifiers are quite crucial and important and virtually indispensable. They are to check the ticket books to ensure that there is no duplication in numbering, denomination and series numbers before issuing the same to the conductors and this checking is necessary to avoid pilferage of Government revenue. The Court then proceeded to observe:-

" The action of the respondents to keep the posts of Ticket Verifiers on daily wages is quite incongruous. The Conductors to whom these Ticket Verifiers entrust the ticket books after checking are employed on regular basis. The Inspectors who check the tickets with the passengers on the buses and counter-check the issuance of tickets by the Conductors are also employed on regular basis. There is no earthly reasons to keep the posts of Ticket Verifiers on daily wages when as per the averments above these posts are indispensable and form part of the regular staff structure of the Haryana Roadways."

The Court finally directed that the respondents should sanction regular time scale of pay for Ticket Verifiers and allow them annual increments to provide them with the requisite incentive to discharge their duties.

18. If in the light of the principle laid down by the Supreme Court and this Court, the cases of the petitioners are examined, I have a little hesitation in holding that the respondents have subjected the petitioners to hostile discrimination by keeping them on daily wages and by denying the parity in pay scale. It is not possible to comprehend with any justification that the persons discharging identical duties of Ticket Verifiers in State service should be paid daily wages while those employed on identical posts in the two instrumentalities of the States of Punjab and Haryana respectively should be paid in regular time scale. The argument of the learned Assistant Advocate General that the parity should be declined to the petitioners because they are employees of the Punjab Roadways while Ticket Verifiers employed in Pepsu Road Transport Corporation and Haryana Roadways are employees of the statutory bodies cannot but be termed as an argument advanced in despair. When even instrumentalities of the State are paying salary to their employees in the regular time scale, there can be no justification whatsoever for not paying employees of the State, who are holding identical posts on daily wages. In my opinion, when the Supreme Court has upheld the claim of parity in pay scale of the employees of different Corporations (refer to the *Employees of Teppery and Footwear Corporation of India and Anr. v. Union of India and Ors.*), there -can be no rationality in denying regular pay scale to the employees employed in the service of the respondent-State.

19. Even otherwise I find sufficient justification in the claim of the petitioners to be paid salary in the regular pay scale. Admittedly the petitioners are not part time employees and their employment is not of intermittent nature. In contrast,

they are whole time employees. By taking work of whole time employees and at the same time paying them on daily wages, the State cannot but be said to have resorted to unfair practice and has subjected the petitioners to most inequitable treatment. It is just sort of subjecting the petitioners to Begar.

Thus, in my opinion the petitioners fundamental right of equality has been violated by the respondents and the petitioners are entitled to a direction for payment of salary in the regular time scale and for other consequential benefits. The argument of learned counsel for the respondents that in the absence of availability of regular sanctioned posts, the benefit of principle of "equal pay for equal work" cannot be extended to the petitioners is without any force. As already noted above, the petitioners have been appointed against vacant posts, may be temporary. Nevertheless the fact remains that the petitioners have been working against vacant posts. To create a post, temporary or permanent is primarily within the discretion of the executive. Whether there is a need for a particular post or not is to be decided by the Government. However, this discretion cannot be allowed to be misused and abused by the Government merely because it is its discretion. The concept of absolute discretion of the executive has been judicially negated in number of pronouncements. The State cannot be allowed to create the posts of daily wage employees for work of permanent or regular nature. Likewise the State cannot have the discretion to keep the post temporary for indefinite period. Similarly the State cannot be permitted to appoint a person against a vacant post (temporary) and pay such person as a daily wager. The petitioners have not only been appointed against vacant posts but some of them have been regularised notwithstanding the fact that they are being-paid as daily wagers. Regularisation of service and payment to the employees as daily wagers cannot but be treated as a contradiction in terms. When the State has got work of regular nature, there remains little justification for it to withhold. sanction of permanent posts and thereby deprive the employees of all benefits which are admissible to other similarly situated persons who have been regularised in service. Decisions of the Supreme Court in *Mewa Ram Kanojia v. All India Institute of Medical Sciences and Ors.* 1989 (1) R.S.J. 354 and *The Secretary, Finance Development and Ors. v. The West Bengal Registration Service Association and Ors.* 1992 (2) R.S.J. 320 on which reliance has been placed by learned Asstt. Advocate General are of little help to the case of the respondents. In the first case what the Supreme Court has held is that in judging the equality of work for purposes of equal pay, regard must be had not only to the duties and functions but also to the educational qualifications. The Supreme Court has further held that where educational qualification prescribed was different and there was difference in measure of responsibilities, the principles of "equal pay for equal work" would not apply. In the second case, the court held that equation of posts and determination of pay scales is the primary function of the executive and not judiciary and, therefore, ordinarily courts will not enter upon the task of job evaluation which is generally left to expert bodies like the Pay Commission etc.

20. In the present case, the respondents have not come forward with the case that there is any difference in the qualification prescribed for the posts of Ticket Verifiers in the services of Pepsu Road Transport Corporation and Haryana Roadways on the one hand and those created under the respondents. Therefore, decision in Mewa Ram Kanojia's case (supra) can have little application in the context of the facts of this case. Again, in this case the court has neither been called upon nor is required to equate the posts or make a fresh determination of pay scales. The posts are already available, though temporary and it is an admitted position that regular pay scales are being paid to the holders of the identical posts in Pepsu Road Transport Corporation and Haryana Roadways. In the present case it has also been found that the petitioners are continuously working as whole time employees for the last 7 to 8 years. Thus there remains no legal or constitutional justification for denial of salary to them in the regular time scale.

21. The claim of the two petitioners in C.W.P. No.9030 of 1988 and all the petitioners in the second writ petition to be regularised in service also merits acceptance. In so far as the second writ petition is concerned, recommendations for regularisation have already been made. The only thing which was left to be done was to issue order for regularisation. The respondents have failed to offer any explanation as to why action for regularisation of service of the two petitioners in C.W.P. 9030 of 1988 has not been taken and why appropriate order has not been issued in favour of the petitioners in C.W.P. 8959 of 1989. Otherwise also there can be no manner of doubt by keeping these persons as daily wagers for 7 to 8 years and by not taking any action for regularisation of their services when others have been given the benefit of regularisation of service, the respondents have discriminated the petitioners.

22. Learned Counsel for the petitioners in CWP No. 9030 of 1988 argued that the benefit of principle of "equal pay for equal work" should be extended to the petitioners from the date of their first appointment. He submitted that the petitioners cannot be denied this relief because there cannot be any waiver on fundamental right. In my opinion this plea of the learned counsel for the petitioners cannot be accepted. The Apex Court and various High Courts have consistently held that a direction for giving benefit of principle of "equal pay for equal work" should be made applicable from the date of filing of the petitioner and not from an earlier date. I do not find any justification to make a departure from that principle.

23. In the result, the writ petitions are allowed. The respondents are directed to pay to all the petitioners salary in the regular time scale of Ticket Verifiers at par with salary paid to Ticket Verifiers employed in the services of Pepsu Road Transport Corporation and Haryana Roadways. This benefit should be extended to the petitioners from the date of filing of the petitions (i.e. 6.10.1988 in C.W.P. No. 9030 of 1988 and 14.7.1989 in CWP 8959 of 1989). The respondents should pay arrears to the petitioners within a period of four months of the submission of

certified copy of this order failing which each of the petitioners shall get interest on arrears at the rate of 12% from the date of this order. It is also made clear that in case the petitioners are paid interest on account of non-compliance of this direction, the amount of interest shall be recoverable from the officer who may be found responsible for the non-compliance of this order.

24. The respondents are also directed to take steps for regularisation of service of petitioners No. 12 and 13 in writ petition No. 9030 of 1988 and issue necessary order for regularisation of service within a period of four months. Similar action should be taken for petitioners in C.W.P. No. 8959 of 1989.