

(2001) 12 P&H CK 0103
In the Punjab And Haryana At Chandigarh
Case No : C.W.P. No. 6780 of 1999

Surjit Singh and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision : 20-12-2001

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2003) 1 LLJ 961

Hon'ble Judges : Swatanter Kumar, J; Amar Bir Singh Gill, J

Bench : Division Bench

Advocate : Sanjeev Bansal, for the Appellant; Reeta Kohli, D.A.G., for the Respondent

Judgement

Swatanter Kumar, J.—The petitioners in these two writ petitions under Article 226/227 of the Constitution of India, pray for issuance of a writ of Mandamus directing the respondents to grant and pay to the petitioners regular pay scale of the posts held by the petitioners on the principle of equal pay for equal work with arrears thereof along with interest at the rate of 24% per annum.

2. The petitioners are employed with the Department of Public Health, Government of Punjab, as Pump Operators, Fitters, Chowkidars, Malis, Helpers, Helper-drivers, M.C.C., Petrol Men etc. Except few petitioners, all other petitioners have been serving on the said posts for a long period spreading over a period of 5 to 14 years. There are few petitioners who have been working as Sewermen, Pump Operators etc. from the year 1996, in the same department. These are the petitioners who have just completed a period of three years on the date of filing of the petition or a little short of the said period. According to the petitioners, they have worked for all this period to the satisfaction of all concerned and are performing the work and functions identical to the ones which their counterparts appointed in the regular cadre are discharging. While relying upon various judgments of the Hon'ble Apex Court and this Court, the petitioners claim that they are entitled to the payment of regular pay-scale from

the date they have been appointed or taken in employment on their respective posts.

3. Upon notice, reply was filed on behalf of the State wherein it was stated that in view of the judgment of the Supreme Court and the -Full Bench of this Court in the case of Ranbir Singh v. State of Haryana 1998 LabIC 1449 the petitioners are not entitled to any relief. However, it was not disputed that the petitioners have been employed on daily wages and it was stated that they are engaged and their names were duly mentioned in the muster roll and no letters of appointment were issued to them. It was stated that there are no regular posts against these workers. It was stated that; a daily wager cannot be equated to a regular employee as their mode of enrolment and employment is totally different. Thus, on behalf of the respondents, it was submitted that the petition should be dismissed.

4. We may notice here that in reply to paragraph Nos. 3 and 4 of the writ petitions, where the petitioners have specifically averred that they were doing the same work and performing the same duties as are being; performed by their regular counterparts. The respondents have not denied this fact. It is also not denied that they have been continuously working without any break in service for the period specified in the petition. Learned counsel appearing for the State of Punjab, during the course of arguments, also conceded to this position.

5. Whether the principle of equal pay for equal work is applicable to the facts and circumstances of the present case, this question need not detain us any longer, as it has been squarely answered in identical cases by us in CWP No. 14050 of 1999 titled as Vijay Kumar v. State of Punjab 2002 LabIC 2026 decided on December 13, 2001, wherein following the principle enunciated by a Full Bench of this Court, it was held as under:

"The petitioners, who are working as Ledger Clerks, Ledger- keepers, Pump Operators, Mali-cum-Chowkidars, Fitters, Petrol Men and Surveyor etc. and are satisfying the aforesaid essential ingredients, are entitled to the minimum of the pay scale (basic pay and dearness allowance alone) admissible to their counterparts working on regular basis in the same department."

6. In view of the fact that petitioners who are similarly situated like the present petitioners have been granted the relief, we see no reason to deny the relief to the petitioners even in these petitions. The petitioners have admittedly worked for a considerable period in the department of the State Government continuously uninterrupted and to the satisfaction of all concerned. The State itself is paying different salary on monthly basis to these persons, to some the minimum wages and to some on the basis of the Common Scheduled Rates. We see no reason why the petitioners should not be placed at parity to the limited extent that they should be entitled to the minimum of the pay scale with dearness allowance alone as granted by the Hon'ble Apex Court in the recent cases.

7. Another factor which we have to notice is that some of the petitioners had not even completed a period of (sic) pronounced by the State dated January 23, 2001. In fact, few of them were employed in the year 1996 and 1997, as such we find it difficult to grant them the relief as aforenoticed even on the date of institution of the writ petitions. It would be just, fair and equitable that the petitioners are granted minimum of the pay scale with dearness allowance alone from the date of the judgment, while the other petitioners would be entitled to the same relief from the date of filing the present petition. The interest claimed by the petitioner is not founded on any reasonable grounds and for the reasons stated in the case of Vijay Kumar (supra), we decline the prayer of the petitioners for grant of interest.

8. For the reasons aforestated, we allow these two writ petitions limited to the above extent, while leave the parties to bear their own costs.