

---

of their sisters. If not more, he must have been contributing towards his father's and sister's maintenance and marriage to the tune of Rs. 400-500 per mensem. Going by this estimate, he would have contributed Rs. 75,000 towards his father's and sister's maintenance and sister's marriage over the years. We are quite alive to this reality of life that Nagesh Mathur was 26 years old and in course of 2-4 years, he would have married and raised his own family. After marriage and raising his own family, his capacity to contribute towards his father would have declined. At the same time, his capacity to earn would also have registered an increase due to gain in experience. Off setting this increase and corresponding distribution of responsibility towards his father and his own family, the net result would have been his contribution towards his father to the tune of 400-450 per mensem. In our social setup even if a sister is married, a brother has to contribute towards her on occasion of birth of some child to her or the marriage of her child or the christening ceremony of her child or the like. In our opinion, Sunder Mohan Mathur should have been awarded, if not more, at least Rs. 75,000 as compensation for the untimely demise of his son Nagesh Mathur at a young age of 26 years. On this amount of compensation, we award 12 per cent per annum as interest payable with effect from the date of claim application till realisation. Amount of compensation shall be payable by both the respondents, whose liability shall be joint and several. Out of this amount of compensation, we do not order deduction of Rs. 10,000 which had been unjustly ordered by the learned Single Judge. We award Rs. 1,000 as costs to the appellant. Amount of compensation shall be shared equally by Rakesh and Dheera.

(13) So, this appeal is allowed and the amount of compensation is enhanced from Rs. 40,000 to Rs. 75,000 with interest as directed above.

---

J.S.T.

Before R.S. Mongia, V.K. Bali and S.S. Sudhalkar, JJ

RANBIR SINGH, – *Petitioners*

*versus*

THE STATE OF HARYANA AND OTHERS, – *Respondents*

CWP No. 10658 of 1994

3rd February, 1998

*Constitution of India, 1950-Art.226 – Ticket Verifiers working on daily wages with Haryana Roadways are not entitled to salary in the pay scale admissible to Ticket Verifiers working on regular basis – Claim for regularisation of services not gone into and petitioners relegated to remedy for making representation to the appropriate authority for its decision by reasoned order.*

(State of Haryana and others *versus* Jasmer Singh and others, JT 1996(1))

---

S.C. 876 followed and CWP 17741 of 1991 (DB) decided on 28th April, 1992 and CWP 9192 of 1995 (DB) decided on 23rd November, 1995, over-ruled)

*Held that, in view of the authoritative pronouncement of the Apex Court in State of Haryana and others versus Jasmer Singh and others, JT 1996(1) S.C. 876, we are of the opinion that the view expressed by the Division Bench in CWP No. 17741 of 1991 and CWP No. 9192 of 1995 and in any other judgment to the same effect would be no longer good law and would stand over-ruled. Consequently, the petitioner would not be entitled to claim the same salary as is being paid to a regular Ticket Verifier. Further held, that so far as the prayer of the petitioners that they are entitled to regularisation service having put in a particular number of years of service as Ticket Verifiers on daily wages, they (petitioners) may make necessary representation in that behalf to the appropriate authority and if any such representation is made by the petitioners of through their counsel within two months, the same be considered in accordance with the relevant instructions on the point within three months of its receipts. It would be appreciated if a reasoned order is passed on the representation.*

(Para 7)

Girish Agnihotri, Advocate, for the petitioners

Harish Rathee, D.A.G., Haryana; for respondent No. 1 to 3

Surya Kant, Advocate; for respondent No. 4

#### JUDGMENT

*R.S. Mongia, J.*

(1) This writ petition was filed by the petitioners who are working as Ticket Verifiers on daily wages basis since 1988 with the Haryana Roadways with a prayer that the respondents be directed to pay salary to them (petitioners) in the pay scale of Rs. 950-1,500, which is paid to Ticket Verifiers who are employed on regular basis and further the respondents be directed to consider the case of the petitioners for regularisation.

(2) The first relief, as mentioned above, is based on principle of 'equal pay for equal work'. Reliance was placed on a Division Bench judgment of this Court in C.W.P. No. 17741 of 1991, *Smt. Neelam Rani v. State of Haryana*, rendered on 28th April, 1992. The Motion Bench had some reservations about the principle laid down in the aforesaid judgment and admitted the case to Full Bench. That is how we are ceased to this matter. Learned counsel for the petitioner cited another Division Bench judgment in C.W.P. No. 9192 of 1995 (*Raj Kumar and others v. State of Haryana and others*) rendered on 23rd November, 1995.

The Division Bench after noticing the judgments in *Randhir Singh v. U.O.I. (1)*, *P.Savita v. U.O.I. (2)*, *Dhirendra Champli v. State of U.P. (3)*, *Surinder*

---

(1) AIR 1982 SC 879

(2) AIR 1985 SC 1124

(3) 1986(1) SCC 637

*Singh v. Engineer in Chief* (4), *Bhagwan Das v. State of Haryana* (5), *Jaipal v. State of Haryana* (6), *V. Markendeya v. State of Andhra Pradesh* (7), *State of U.P. v. J.P. Chaurasia* (8), and *Grib Kalyan Kendra Workers Union v. Union of India* (9), held that the daily wagers were entitled to the same salary as a regularly appointed person on the principle of 'equal pay for equal work'. It was also observed that the same salary would mean minimum of the pay scale prescribed for a post held by the regular employees. Further, the petitioner also relied upon the same authorities of the Apex Court as were noticed by the aforesaid Division Bench in C.W.P. No. 9192 of 1995.

(3) It is not necessary for us go into any detail of the judgments of the Division Bench and the other judgments of the apex Court as the apex Court in case reported as *State of Haryana and others v. Jasmer Singh and others* (10), After noticing the authorities reported as *Ghaziabad Development Authority and Others v. Vikram Chaudhary* (11), *Harbans Lal and Others v. State of Himachal Pradesh and Others* (12), *Mewa Ram Kanojia v. All India Institute of Medical Sciences and Others* (13), *State of U.P. and Others v. J.P. Chaurasia and Others* (14) *Jaipal and Others v. State of Haryana and Others* (15), *Federation of All India Customs and Central Excise Stenographers (Recognised) and Others v. Union of India and Others* (16), *Dhirendra Chamoli and Anr. v. State of U.P.* (17) and *Randhir Singh v. Union of India and Others* (18), held that daily rated workers cannot be treated as on par with persons in regular service and they cannot be paid minimum of regular pay scales. It will be apposite to notice what the apex Court observed while noticing the earlier case law on the point:

"5. The principle of 'equal pay for equal work' is not always easy to apply. There are inherent difficulties in comparing and evaluating work done by different persons in different organisations, or even in the same organisation. The principle was originally enunciated as a part of the Directive Principles of State Policy in Article 39(d) of the Constitution. In the case of *Randhir Singh versus Union of India and Others*, however, this Court said that this was a constitutional goal capable of being achieved through constitutional remedies and held that the principle had to be read into articles 14

- 
- (4) AIR 1986 SC 594
  - (5) AIR 1987 SC 2049
  - (6) AIR 1988 SC 1504
  - (7) AIR 1989 SC 1308
  - (8) AIR 1989 SC 19
  - (9) AIR 1991 SC 1173
  - (10) JT 1996(10) SC 876
  - (11) JT 1995(5) SC 636 = (1995)(5) SCC 210
  - (12) JT 1989(3) SCC 296 = (1989) (4) SCC 459
  - (13) JT (1989)(1) SC 512 = 1989(2) SCC 235
  - (14) 1989(1) SCC 121
  - (15) JT 1988(2) SC 528 = 1988(3) SCC 354
  - (16) JT 1988(2) SC 519 = 1988(3) SCC 91
  - (17) 1981(1) SCC 637
  - (18) 1982(1) SCC 618

---

and 16 of the Constitution. In that case a Driver-constable in the Delhi Police Force under the Delhi Administration claimed equal salary as other Drivers and this prayer was granted. The same principle was subsequently followed for the purpose of granting relief in *Dhirendra Chamoli and Anr. versus State of UP* (1986(1) SCC 637) and *Jaipal and Others versus State of Haryana and Others*. JT 1988(2) SC 528=1983(3) SCC 354). In the case of *Federation of All India Customs and Central Excise Stenographers (Recognised) and Others versus Union of India and Others*, JT 1988(2) SC 519=(1988(3) SCC 91), however, this Court explained the principle of 'equal pay for equal work' by holding that differentiation in pay scales among government servants holding same posts and performing similar work on the basis of difference in the degree of responsibility, reliability and confidentiality would be a valid differentiation. In that case different pay scales fixed for Stenographers (Grade I) working in the Central Secretariat and those attached to the heads of subordinate offices on the basis of a recommendation of the Pay Commission was held as not violating Article 14 and as not being contrary to the principle of 'equal pay for equal work'. This Court also said that the judgment of administrative authorities concerning the responsibilities which attach to the post, and the degree of reliability expected of an incumbent, would be a value judgment of the concerned authorities which, if arrived at *bona fide*, reasonably and rationally, was not open to interference by the court.

6. In the case of *State of U.P. and Others versus J.P. Chaurasia and Others*. (1989(1) SCC 121) this Court again sounded a note of caution. It pointed out that the principle of 'equal pay for equal work' has no mechanical application in every case of similar work. Article 14 permits reasonable classification based on qualities or characteristics of persons recruited and grouped together, as against those who are left out. Of course, these qualities or characteristics must have a reasonable relation to the object sought to be achieved. In the case before the Court, the Bench Secretaries in the High Court of Allahabad claimed the same pay as Section Officers. While negating this claim, the court said that in service matters merit or experience can be a proper basis for classification for the purposes of pay in order to promote efficiency in administration. That apart, a higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is also an acceptable reason for pay differentiation. It observed that although all Bench Secretaries may do the same work, their quality of work may differ. Bench Secretaries (Grade I) are selected by a Selection Committee on the basis of merit with due regard to seniority. A higher pay scale granted to such Bench Secretaries who are evaluated by a competent authority cannot be challenged.

---

7. In the case of *Mewa Ram Kanojia v. All India Institute of Medical Sciences & Ors*, JT 1989 (1) SC 512 (1989 2 SCC 235), a classification based on difference in educational qualifications was held as justifying a difference in pay scales. This Court further observed that the judgment of the Pay Commission in this regard relating to the nature of the job, in the absence of material to the contrary, should be accepted. Referring to these decisions, this Court in the case of *Harbans Lal & Ors. v. State of Himachal Pradesh and Ors.*, JT 1989(3) SC 296 = (1989 4 SCC 459) summed up the position by stating that a mere nomenclature designating a person as a Carpenter or a Craftsman was not enough to come to the conclusion that he was doing the same work as another Carpenter in regular service. In that case, Carpenters employed by the Himachal Pradesh Handicraft Corporation on daily wages sought parity of wages with Carpenters in regular service. This Court negated this contention, holding that a comparison cannot be made with counterparts in other establishments with different management or even in the establishments in different locations though owned by the same management. The quality of work which is produced may be different and even the nature of work assigned may be different. It is not just a comparison of physical activity. The application of the principle of 'equal pay for equal work' requires consideration of various dimensions of a given job. The accuracy required and the dexterity that the job may entail may differ from job to job. It must be left to be evaluated and determined by an expert body. The latest judgment pointed out in this connection is the decision in the case of *Ghaziabad Development Authority & Others. v. Vikram Chaudhary & Others*, JT 1995 (5) SC 636 = 1995(5) SCC 210.

(4) After noticing the aforesaid authorities, the Apex Court went on to observe as under :

"8. It is, therefore, clear that the quality of work performed by different sets of persons holding different jobs will have to be evaluated. There may be differences in educational or technical qualifications which may have a bearing on the skills which the holders bring to their job although the designation of the job may be the same. There may also be other considerations which have relevance to efficiency in service which may justify differences in pay scales on the basis of criteria such as experience and seniority, or a need to prevent stagnation in the cadre, so that good performance can be elicited from persons who have reached the top of the pay scale. There may be various other similar considerations which may have a bearing on efficient performance in a job. This Court has repeatedly observed that evaluation of such jobs for the purpose of pay-scale

---

must be left to expert bodies and, unless there are any *mala fides*, its evaluation should be accepted."

9.   xx                   xx                   xx                   xx

10. The respondents, therefore, in the present appeals who are employed on daily wages cannot be treated as on a par with persons in regular service of the State of Haryana holding similar posts. Daily rated workers are not required to possess the qualifications prescribed for regular workers, nor do they have to fulfil the requirement relating to age. They are not selected in the manner in which regular employees are selected. In other works the requirements for selection are not as rigorous. There are also other provisions relating to regular service such as the liability of a member of the service to be transferred, and his being subject to the disciplinary jurisdiction of the authorities as prescribed, which the daily-rated workmen are not subjected to. They cannot, therefore, be equated with regular workmen for the purposes for their wages. Nor can they claim the minimum of the regular pay scale of the regularly employed."

(5) A Division Bench of this Court, in which one of us (R.S. Mongia, J.) was a member in C.W.P. No. 9766 of 1995, decided on November 8, 1995, after noticing the judgment of the Apex Court in *Ghaziabad Development Authority's case* (Supra) had held that a daily wage employee cannot be equated with a regular employee for the purpose of pay scale. It was observed that "a daily wage employee is not subject to disciplinary control of the employer in-as-much as he may come for work on a particular day or may not come and still the employer would have no right to take any disciplinary action against such an employee who may be absent for a day or for a longer period. He is not required to take any leave from the employer for a particular day on which he does not wish to come."

(6) In view of the authoritative pronouncement of the apex Court, we are of the opinion that the view expressed by the Division Bench in C.W.P. No. 17741/1991 and C.W.P. No. 9192 of 1995 and in any other judgment to the same effect would be no longer good law and would stand over-ruled. Consequently, the petitioner would not be entitled to claim the same salary as is being paid to a regular Ticket Verifier.

(7) So far as the prayer of the petitioners that they are entitled to regularisation in service having put in a particular number of years of service as Ticket Verifiers on daily wages, they (petitioners) may make necessary representation in that behalf to the appropriate authority and if any such representation is made by the petitioners or through their counsel within two months, the same be considered in accordance with the relevant instructions on the point within three months of its receipt. It would be appreciated if a reasoned order is passed on the representation.

---

(8) Subject to the observations made above, we find no merit in this writ petition, which is hereby dismissed.

---

R.N.R.

Before R.S. Mongia, K.K. Srivastava & S.S. Sudhalkar, JJ

KARTAR SINGH, – Petitioner

versus

STATE OF HARYANA & OTHERS, – Respondents

CWP No. 6580 of 1994

24th February, 1998

*Constitution of India, 1950 – Arts. 14, 16 & 226 – Punjab Civil Service Rules, Vol. I, part I – Rl. 7.5 – Haryana Government Instructions dated 21st October, 1980 – Resignation – Withdrawal of – Not permissible where employee resigns to contest election – Merely because Government has permitted some employees to withdraw resignation would not confer enforceable right to withdrawal – Such action does not amount to discrimination and is violative of articles 14 & 16 of the Constitution – Fact the petitioner belongs to a poor Dalit family and is solely dependent on his service cannot form basis for permission to withdraw resignation since it cannot be said to be covered by the expression “over – whelming/compelling reasons” used in Government instructions dated 21st October, 1980 – Such person has only right to apply for fresh service under the State in competition with all eligible persons.*

*Held that (1) in view of the judgment of the Apex Court in ‘State of Haryana & another v. Ram Kumar Mann, 1997 (2) R.S.J. 520, no legal and enforceable right is conferred on such persons, who have submitted their resignation from service in order to contest an election and the same having been accepted by the State, the State is not bound to permit the withdrawal of resignation; (2) The second question is answered in the negative. The State’s refusal to exercise the discretion does not amount to discrimination and is, therefore, not violative of articles 14 & 16 of the Constitution of India; (3) the third question is answered in the affirmative.*

(Para 12)

*Further held, that the only reason which has been given by the petitioner for submitting resignation was that he wanted to contest the election to the Haryana Legislative Assembly. This cannot be said to be a compelling or over-whelming reason to submit the resignation. After the same is accepted, the incumbent has to show that the resignation may be allowed to be withdrawn as he had submitted his resignation under some compelling circumstances. According to our considered view, the petitioner, who alleges himself to be belonging to a poor family i.e. being a member of Scheduled Caste and is wholly and solely dependant on his service, would not have, as a reasonable and prudent person, thought of resigning his service only for the purpose of contesting the election. At least this ground could not be*