

State of Punjab and Others

Vs

Devinder Singh and Others

Civil Appeal No. 4942 of 1997

(S. B. Majmudar, M. Jagannadha Rao JJ)

21.07.1997

ORDER

1. Leave granted.
2. By consent of learned counsel for the parties the appeal is taken up for final hearing.
3. The short question is whether the High Court was justified in directing the appellant-State to pay to the respondents-petitioners before the High Court the salary and allowances as are being paid to the regular employees holding similar posts and whether the respondents could be held entitled to the payment of difference of the pay scale for the period of last three years from the date of filing of the writ petition. It is not a dispute and cannot be disputed that the respondents are NMR daily wage Ledger-Keepers/Ledger Clerks. Their contention before the High Court was that they were doing the same work as regular Ledger Clerks who are recruited by the employer. Consequently, they must be paid equal pay on the ground of equal work. In our view, the principle of "Equal Pay for Equal Work" can enure to the respondents to the limited extent that when they were found to have been giving similar work as Ledger Clerks/Ledger-Keepers they could have been paid the minimum of the pay scale of a Ledger-Keeper which was available to regularly appointed Ledger-Keepers/Ledger Clerks. Learned counsel for the respondents could not successfully contend that such an order should not have been passed. We, therefore, allow this appeal to the limited extent that though the respondents are held entitled on the principle of "Equal Pay for Equal Work" to get the salary available to the Ledger-Keepers/Ledger Clerks who are regularly recruited, they would be entitled to the minimum of the pay scale of the Ledger-Keepers which may be available to the regularly appointed Ledger-Keepers and they cannot be straightaway paid the running time scale as they were not regularly appointed as Ledger-Keepers/Ledger Clerks. If the respondents claim to be regularised, it will be open to the respondents to approach the appellants for the same which request obviously will be considered by the appellants on its own merits. The direction issued by the High Court in favour of the respondents entitling them to get the salary and allowances as regularly appointed employees is set aside and instead it is directed that the respondents will be entitled to get the minimum of the pay scale available to the Ledger-Keepers/Ledger Clerks with permissible allowances on that basis and the difference between the emoluments already paid to each of the respondents and those payable to them pursuant to the present order will be payable to the respondents for a period of three years prior to the filing of the writ petition and thereafter minimum salary in the time scale of Ledger-Keepers/Ledger Clerks with appropriate allowances thereon shall be available to the respondents so long they work as daily wage Ledger-Keepers/Ledger Clerks. In view of the present order if in case any amount is found to have been paid to the respondents in excess, it will be adjusted in a phased and reasonable manner so that the respondents may not be out of pocket to a large extent. No costs.