

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL No.4867/1998 @@
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State of Punjab Appellant(s)

VERSUS

Talwinder Singh & Ors. Respondent (s)

(With Appln.for modification of Court's order and O.R.)

(WITH Appln.for permission to take on record orders passed
by the Hon'ble Supreme Court and High Court)

Date : 13.12.2000 This appeal was called on for hearing today.@@
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CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK
HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant (s) Mr. Rajiv Dutta,Sr.Adv.
Mr. Vikram Malik,Adv.for
Mr. R.S.Suri,Adv.

For the Respondent(s) Mr. S.K. Bagga,Sr.Adv
M/s. Seeraj Bagga,Sandeep Kapoor,Advs.for
Mrs. S.Bagga,Adv.

UPON hearing counse, the Court made the following
O R D E R

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.SP2

The Appeal is allowed in part.
In view of the disposal of the appeal there is no
necessity to pass orders on application for modification of
Court's order filed by the State of Punjab.

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(Y.P.Dhamija) (Suneet Bala Sharma)@@
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COURT MASTER COURT MASTER
Signed order is placed on the file.

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State of Punjab

...Appellant

Vs.

Talwinder Singh & Ors.

....Respondents

O R D E R@@
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.SP2

State of Punjab is in appeal against the judgment of the Division Bench of Punjab and Haryana High Court dismissing the State's Letter Patent Appeal and affirming the conclusion and direction of the learned Single Judge. These respondents have been working as daily wager under the PWD Public Health Department. They filed the Writ Petition claiming that they are entitled to get the same scale of pay as their counter parts on regular basis are getting inasmuch as they are discharging the same type of duties and they possess the same prescribed qualifications. The learned Single Judge came to the conclusion on assessment of the duty discharged by those respondents that they have been discharging the similar duties as those of their counter parts in regular employment, but yet instead of applying the principle of equal pay for equal work, namely, prescribing the scale of pay for these daily wager, directed that they

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would get the minimum in the scale of pay as is available for their counter parts on regular establishment. The learned Single Judge also further directed that they should get this for a period of 3 years prior to the date of filing of the Writ Petition. The Division Bench has affirmed the aforesaid conclusion and direction of the learned Single Judge. The learned Single Judge as well as the Division Bench have relied upon a decision of this Court in the case of State of@@

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Punjab and Ors. Vs. Devinder Singh & Ors. (1998) 9 SCC@@
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595. The aforesaid decision undoubtedly apply with full@@
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force to the facts and circumstances of the present case. Mr. Rajiv Dutta, the learned senior counsel appearing for the State of Punjab, however, contended that the decision of this Court in Devinder Singh has not noticed the earlier decision of a 2-Judge Bench in the case of State of Haryana &@@

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Ors. Vs. Jasmer Singh & Ors. (1996) 11 SCC 77 whereunder@@
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this Court, after elaborate discussion of the several earlier decisions of this Court and on a comparison of the duties discharged by the daily wages, has come to the conclusion that such daily wager even cannot claim the minimum of regular pay scale of the regularly employed. This decision obviously has not been brought to the notice of the Court while disposing of Devinder Singh case. But it appears from the judgment in Jasmer Singh's case that the Court came to

the same conclusion possibly because of the fact that in the matter of discharge of duties by those daily wager it came to

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the finding that they do not discharge the similar duties as those of the regularly employed people as well as they do not possess the same qualifications as those of the regularly employed people. This being the position and Devinder Singh case squarely covering the case in hand, we are not inclined to refer this matter to a larger Bench. On the facts and circumstances of the present case, we see no infirmity with the impugned judgment following the decision of this Court in Devinder Singh granting of minimum in the scale of pay of a regular employee. But the further direction that they will get this relief for a period of 3 years prior to the date of filing of the Writ Petition cannot be sustained in any view of the matter. We, therefore, set aside that part of the order directing payment at the minimum of regular scale of pay for a period of 3 years prior to the date of filing of the Writ Petition. This Civil Appeal is accordingly allowed in part. In view of the disposal of the appeal there is no necessity to pass any order on the application for modification of Court's order filed by the State of Punjab.

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.....J.
(G.B. PATTANAIK)

New Delhi,
December 13, 2000

.....J.
(B.N. AGRAWAL)