



HIGH COURT OF ANDHRA PRADESH
THURSDAY ,THE TWENTY FIRST DAY OF APRIL
TWO THOUSAND AND TWENTY TWO

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

WRIT PETITION NO: 1352 OF 2021

Between:

1. Gudikandula Jagadish , S/o Samudrudu, Aged 36 years, Occ Sweeper
R/o D.No.1-42, Nutchumilli Village Mandavalli Mandal, Krishna District
2. Baswani Mahendra Varma, S/o Ramakrishna Mohan Rao Aged 45 years,
Occ Tank Watcher, R/o D.No. 4-173/2, Kotakalidindi, Kalidindi Mandal,
Krishna District
3. Yalavarthi Ramesh Babu, S/o Ranga Rao, Aged 40 years, Occ Fitter
R/o D.No. 7-39, Petakalidindi, Kalidindi Village, Kalidindi Mandal, Krishna
District
4. Bhupathi Balaji, S/o Nancharaiah, Aged 32 years, Occ Sweeper, R/o
D.No. 10-32, Indira Colony, Kalidindi Mandal, Krishna District
5. Manjuluri Nagaveera Kumar, S/o Ramaswamy Aged 44 years, Occ
Sweeper, R/o Kallapalem village, Kalidindi Mandal, Krishna District
6. Gonna Chinna Babu, S/o Anjaneyulu, Aged 47 years, Occ Sweeper, R/o
D.No.3-71/A, Chinthapadu GP, Mandavalli Mandal, Krishna District
7. Kare Suresh Babu, S/o Prabhakar Rao, Aged 44 years, Occ Tank
Watcher, R/o D.No. 1-68, Singanapudi GP, Mandavalli Mandal, Krishna
District
8. Nelaturi Eliya , S/o Jakaraiay, Aged 49 years, Occ Sweeper, R/o D.No.
12-1-99, Singanapudi GP, Mandavalli Mandal, Krishna District
9. Kunche Venkateswara Rao, S/o Koteswara Rao,
Aged 47 years, Occ Tank Watcher, R/o D.No. 2-39, Ayyavarirudravaram,
Mandavalli Mandal, Krishna District
10. Gangula Trimurthulu, S/o Parasuramaiah,
Aged 39 years, Occ Fitter,
R/o Sanarudravaram, Kalidindi Mandal, Krishna District
11. Vudamudi Satyanarayana Raju, S/o Venkata Raju Aged 53 years, Occ
Fitter R/o Pedalanka, Kalidindi Mandal, Krishna District
12. Mannepalli Rathakar Rao, S/o Devadanam,
Aged 38 years, Occ Fitter,
R/o Unikili Village, Mandavalli Mandal, Krishna District
13. Kancherla Kishore Babu, S/o Venkata Ramaiah,
Aged 24 years, Occ Fitter,
R/o Mokhasakalvapudi Village, Mandavalli Mandal, Krishna District
14. Kuna Syama Sailakumari, W/o Venkata Subba Rao, Aged 45 years, Occ
Sweeper,
R/o Putlacheruvu Village and Unikili Post
Mandavalli Mandal, Krishna District
15. Gaddam Rajendra Prasad, S/o Mangapathi, Aged 32 years, Occ Fitter,
R/o Unikili Village and Post, Mandavalli Mandal, Krishna District
16. Birudugadda Pascaleela, D/o Gaspar Raju,
Aged 35 years, Occ Sweeper,
R/o Bhairavapatnam, Mandavalli Mandal, Krishna District
17. Medapalli Sreenivasa Rao S/o Krupa Rao,
Aged 45 years, Occ Sweeper, R/o Kaikaluru Mandal, Krishna District

...PETITIONER(S)



AND:

2022:APHC:9913

1. The State of Andhra Pradesh, Rep. by its Principal Secretary, Panchayat Raj Department, Secretariat, Velagapudi, Guntur District
18. The Commissioner, Panchayat Raj and Rural Development Department, No. 12-47, P.V.S Empire, Near Pratur Cross Road, Tadepalli, Guntur District.
19. The District Collector, Krishna District
Vijayawada,
20. The District Panchayat Officer, Machilipatnam, Krishna District

...RESPONDENTS

Counsel for the Petitioner(s): M SRIKANTH

Counsel for the Respondents: GP FOR SERVICES II

The Court made the following: ORDER



HON'BLE SRI JUSTICE RAVI NATH TILHARI

WRIT PETITION No.1352 OF 2021

21.04.2022

Between:

Gudikandula Jagadish and others

....Petitioners.

And:

The State of A.P.,
rep. by its Principal Secretary, Panchayat Raj Department, Secretariat,
Velagapudi, Guntur District, Amaravati and others.

....Respondents

DATE OF JUDGMENT PRONOUNCED:21.04.2022.

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

1. Whether Reporters of Local newspapers may be allowed to see the Judgments? Yes/No
2. Whether the copies of judgment may be Marked to Law Reporters/Journals Yes/No
3. Whether Your Lordships wish to see the fair Copy of the Judgment? Yes/No

RAVI NATH TILHARI, J

***HON'BLE SRI JUSTICE RAVI NATH TILHARI****+ WRIT PETITION No.1352 OF 2021**

21.04.2022

Gudikandula Jagadish and others

....Petitioners.

And:

The State of A.P.,
rep. by its Principal Secretary, Panchayat Raj Department, Secretariat,
Velagapudi, Guntur District, Amaravati and others.

....Respondents

! Counsel for the petitioners: Sri M. Srikanth

^ Counsel for the respondents: Learned Government Pleader for Services-II.

< Gist:

> Head Note:

? Cases referred:

^{1.} 2017(1) SCC 148^{2.} 2017(6) ALD 638^{3.} 2017 LawSuit (Hyd) 445^{4.} 2012 (1) ALD 26 (DB)

**HON'BLE SRI JUSTICE RAVI NATH TILHARI****WRIT PETITION No.1352 OF 2021****JUDGMENT:**

1. Heard Sri M. Srikanth, learned counsel for the petitioners and the learned Government Pleader for Services-II.

This writ petition has been filed for the following reliefs:

“It is hereby prayed that this Hon’ble Court may be pleased to issue a Writ, Order of direction particularly one in the nature of Writ of *Mandamus* declaring the action of the respondents in not granting the petitioners minimum of time scale of pay attached to the post in which they are working along with increments, as revised from time to time as illegal, arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution of India as well as the law laid down by the Hon’ble Supreme Court as well as this Hon’ble Court and consequently direct the respondents to immediately grant them minimum of time scale of pay attached to the post in which they are working along with increments as revised from time to time and pass such order or orders may deem fit and proper in the circumstances of the case.”

2. The petitioners, 17 in number, were appointed in Panchyat Raj Department in various posts i.e Sweeper, Tank Watcher, Fitter, relating to the Sanitation and Public Health from 1992 to 2018 on contract base. Their case is that they are discharging the same duties at par the regular employees but are being paid only fixed remuneration enhanced from time to time and pursuant to the G.O.Ms.No.57, Panchayat Raj Rural Development Department dated 13.02.2019 they are being paid Rs.10,000/- per month. The petitioners claim payment of minimum of pay scale attached to the posts in which they respectively are working with increments.

3. Sri M. Srikanth, learned counsel for the petitioners submitted that the petitioners are so entitled on the principle of equal pay for equal work which has been duly recognized by Hon’ble the Apex Court



in **State of Punjab vs. Jagjit Singh**¹ with respect to temporary employees as well, including contractual employees.

4. Learned counsel for the petitioner further placed reliance on the judgment of this Court in **P. Khadar Basha vs. Stae of Andhra Pradesh**², to contend that the petitioners are entitled to grant of annual increments as part of the time scale.

5. Learned Government Pleader for Services-II for the respondents submitted that the petitioners are working as contract workers in various Gram Panchayats of Krishna District. They will be paid wages from availability of the Gram Panchayat general fund only on the financial status of the Gram Panchayats as per the resolution. They are not the regular employees, even though they are discharging same duties.

6. Learned Government Pleader further submitted that the expenditure of the establishment has been increased from 30% to 50% vide G.O.Ms.No.57 Panchayat Raj and Rural Development dated 13.02.2019 for utilizing the services of contract workers in Gram Panchayat, and the Gram Panchayats will resolve to invite the tenders for sanitation, maintenance of public works scheme works and maintenance of street lighting by utilizing the services of number of persons on contract basis for which publication is made in the newspaper and tenders are received. The gram panchayat will approve the lowest tender and the persons employed on contract basis pursuant thereto will be engaged and paid the wages on contract basis. He further submitted that in view of G.O.Ms.No.70 PR&RD dated 29.02.2020, the District Collector, is empowered to sanction the work on contract basis for grant of more than Rs.50,000/- and below Rs.50,000/-, the District Panchayat Officer is so empowered per year

¹ 2017(1) SCC 148

² 2017(6) ALD 638



and more over the Collector or District Panchayat Officer will not give any sanction order in the name of the person i.e the contract employee, but for the number of persons on contract basis for utilization of their services in Gram Panchayat.

7. I have considered the submissions advanced by the learned counsels for the parties and perused the material on record.

8. The petitioners claim is denied by the respondents on the ground that they are only contract employees and would be entitled to wages only and not the minimum of the pay scale or any increments, which is available only to the regular employees.

9. The point for consideration is, if the petitioners' i.e the contract employees, are entitled to the payment of the minimum of pay scale attached to their respective posts, at par the regular employees on such posts including the annual increments and whether they are discharging the same duties as are being discharged by the regular employees on respective posts.

10. The point in issue is no more *res integra*.

10. In **Jagjit Singh** (supra), the Hon'ble Supreme Court has laid down the law that the principle of equal pay for equal work is applicable to temporary employees as well. It is apt to reproduce paras 56, 57, 58, 59 and 61 as under:

“56. We shall now deal with the claim of temporary employees before this Court.

57. There is no room for any doubt, that the principle of 'equal pay for equal work' has emerged from an interpretation of different provisions of the Constitution. The principle has been expounded through a large number of judgments rendered by this Court, and constitutes law declared by this Court. The same is binding on all the courts in India, under [Article 141](#) of the Constitution of India. The parameters of the principle, have been summarized by us in paragraph 42 hereinabove.



The principle of ‘equal pay for equal work’ has also been extended to temporary employees (differently described as work-charge, daily-wage, casual, ad-hoc, contractual, and the like). The legal position, relating to temporary employees, has been summarized by us, in paragraph 44 hereinabove. The above legal position which has been repeatedly declared, is being reiterated by us, yet again.

58. In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work, cannot be paid less than another, who performs the same duties and responsibilities. Certainly not, in a welfare state. Such an action besides being demeaning, strikes at the very foundation of human dignity. Any one, who is compelled to work at a lesser wage, does not do so voluntarily. He does so, to provide food and shelter to his family, at the cost of his self respect and dignity, at the cost of his self worth, and at the cost of his integrity. For he knows, that his dependents would suffer immensely, if he does not accept the lesser wage. Any act, of paying less wages, as compared to others similarly situate, constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.

59. We would also like to extract herein [Article 7](#), of the International Covenant on Economic, Social and Cultural Rights, 1966. The same is reproduced below:-

“[Article 7](#) The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
 - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- (b) Safe and healthy working conditions;
- (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.” India is a signatory to the above covenant, having ratified the same on 10.4.1979. There is no escape from the above obligation, in view of different provisions of the Constitution referred to above,



and in view of the law declared by this Court under [Article 141](#) of the Constitution of India, the principle of 'equal pay for equal work' constitutes a clear and unambiguous right and is vested in every employee – whether engaged on regular or temporary basis.

60. Having traversed the legal parameters with reference to the application of the principle of 'equal pay for equal work', in relation to temporary employees (daily-wage employees, ad-hoc appointees, employees appointed on casual basis, contractual employees and the like), the sole factor that requires our determination is, whether the concerned employees (before this Court), were rendering similar duties and responsibilities, as were being discharged by regular employees, holding the same/corresponding posts. This exercise would require the application of the parameters of the principle of 'equal pay for equal work' summarized by us in paragraph 42 above. However, insofar as the instant aspect of the matter is concerned, it is not difficult for us to record the factual position. We say so, because it was fairly acknowledged by the learned counsel representing the State of Punjab, that all the temporary employees in the present bunch of appeals, were appointed against posts which were also available in the regular cadre/establishment. It was also accepted, that during the course of their employment, the concerned temporary employees were being randomly deputed to discharge duties and responsibilities, which at some point in time, were assigned to regular employees. Likewise, regular employees holding substantive posts, were also posted to discharge the same work, which was assigned to temporary employees, from time to time. There is, therefore, no room for any doubt, that the duties and responsibilities discharged by the temporary employees in the present set of appeals, were the same as were being discharged by regular employees. It is not the case of the appellants, that the respondent-employees did not possess the qualifications prescribed for appointment on regular basis. Furthermore, it is not the case of the State, that any of the temporary employees would not be entitled to pay parity, on any of the principles summarized by us in paragraph 42 hereinabove. **There can be no doubt, that the principle of 'equal pay for equal work' would be applicable to all the concerned temporary employees, so as to vest in them the right to claim wages, at par with the minimum of the pay-scale of regularly engaged Government employees, holding the same post.**

61. In view of the position expressed by us in the foregoing paragraph, we have no hesitation in holding, that all the concerned temporary employees, in the present bunch of cases, would be entitled to draw wages at the minimum of the pay-scale (at the lowest grade, in the regular pay- scale), extended to regular employees, holding the same post.”



12. In view of the law aforesaid, the temporary employees are entitled to draw wages on the minimum of pay scale at a lowest grade, in the regular pay scale extended to the regular employees holding the same post. The 'temporary employees' are daily wage employees, adhoc appointees, employees appointed on casual basis, **contractual employees** and the like.

13. In view of **Jagjit Singh** (supra), the sole factor which now requires determination is whether the petitioners are rendering similar duties and responsibilities as are being discharged by regular employees holding the same or corresponding post.

14. It is admitted by the respondents that the petitioners are working as contract workers in various Gram Panchayats of Krishna District from 1992 to 2018 and they are discharging the same duties as of regular employees. In this respect para No.3 of the counter affidavit is being reproduced as under:

“3. In reply to Para No.3 to 6 of the affidavit it is submitted that, the averment made by the petitioners is neither true nor correct. The petitioners were not employees **even though they are discharging of the same duty they are utilizing for entrustment of Sanitation and maintenance of PWs scheme works and Electrification work for one year on contract basis** and the wages to the contract workers will be paid from general fund on the financial status of the Gram Panchayat as per the resolution only and it is submitted that the expenditure on the establishment has been increased from 30% to 50% vide G.O.Ms.No.57, PR&RD, dated 13.02.2019 for utilizing the services of the contract workers in the Gram Panchayat.”

15. The next point is, if the petitioners are entitled for minimum of pay scale, with increments as revised from time to time.



16. In **P. Khadar Basha, S/o. Masthan Khan and four others vs. State of A.P and others**³, a Division Bench of this Court held that the pay scale of pay, in Rule 31 (a) of Rule 9 of A.P. Fundamental Rules means pay which, subject to any condition prescribed in those rules, rises by periodical increments from a minimum to maximum. The scale of pay has to change with the change of time by addition of periodical increments and once the minimum pay scale is extended to the temporary employees they are also entitled to addition of increments from time to time in the minimum pay scale, without being entitled to all other allowances to which regular employees are entitled.

17. It is apt to reproduce paras 7 to 12 of **P. Khadar Bash** (supra) as under:

“7. The learned senior counsel has also drawn our attention to the judgment of a Division Bench of this Court in Government of Andhra Pradesh and others Vs. S.Nageswara Rao and others , wherein this Court allowed a similar claim made by NMRs/temporary employees of certain municipalities. In this context, it is apt to extract the observations of the Division Bench below:-

There is no dispute that all of them were given regular scale of pay and also conferred the benefit of revised pay scales as and when new scales were implemented in the State of Andhra Pradesh. After giving regular scale of pay and also granting annual grade increments for some time, various Municipalities and Municipal Corporations stopped releasing increments and giving revised scales of pay, necessitating adjudication of the same by the Andhra Pradesh Administrative Tribunal. The respondents are casual/NMR/temporary Class-IV employees, who do similar work and discharge similar functions as any regular Class-IV employees. The principle of equal pay for equal work would bar the State or its agents from denying annual grade increments and revised scale of pay to the respondents. We are, therefore, not impressed with the argument that

³ 2017 LawSuit (Hyd) 445



the grant of annual grade increments or grant of revised pay scales to the respondents would contravene the provisions of the A.P.Act 2 of 1994.

8. In our view, the petitioners are entitled to the relief claimed by them based on the above-mentioned precedents. Even otherwise also, going by the definition of time scale of pay in Ruling-31(a) of Rule-9 of the Andhra Pradesh Fundamental Rules, the petitioners are entitled to payment of increments. This Rule reads as under:

Time scale of pay means pay which subject to any condition prescribed in these rules, rises by periodical increments from a minimum to maximum. It indicates the class of pay hitherto known as progressive.

9. The above-extracted definition of time scale of pay leaves us in no doubt that the scale of pay has to change with the change of times by addition of periodical increments. Otherwise the expression time scale would have no meaning at all.

10. In the light of the above discussion, we are of the opinion that as the petitioners have been extended the minimum time scale, they are entitled to addition of increments from time to time in the minimum time scale without being entitled to all other allowances which a regular employee is entitled.

11. The learned Government Pleader for Services (Andhra Pradesh) submitted that the Court may consider limiting the grant of annual grade increments to the petitioners to a reasonable past period as, the relief of payment of arrears, if granted from the time of extension of the minimum time scale to the petitioners, would cause huge burden on the exchequer.

12. Though in strict sense, the petitioners are entitled to all the arrears, keeping in view the fact that they have approached the Tribunal only in the year 2013 and also the public interest, we restrict the said benefit only from the date of filing of the said O.A. by the petitioners. **The Writ Petition is, accordingly, allowed in part to the extent indicated above. The respondents shall revise the minimum time scale of pay of the petitioners by adding the annual grade increments as and when they fell due from time to time.”**



18. It is further apt to reproduce paragraph 8 of the **Government of Andhra Pradesh and others vs. S. Nageswara Rao and others⁴** as under:

“8. After referring to **Randhir Singh v. Union of India, (1982) 1 SCC 618 : AIR 1982 SC 879**, [Dhirendra Chamoli v. State of U.P., \(1986\) 1 SCC 637](#), [Surinder Singh v. Engineer-in-Chief C.P.W.D., \(1986\) 1 SCC 639 : AIR 1986 SC 584](#), [R.D. Gupta v. Lt. Governor, Delhi Admn., \(1987\) 4 SCC 505 : AIR 1987 SC 2086](#), [U.P. Income-tax Department Contingent Paid Staff Welfare Association v. Union of India, 1987 Supp SCC 658 : AIR 1988 SC 517](#), [State of U.P. v. J.P. Chaurasia, \(1989\) 1 SCC 121 : AIR 1989 SC 19](#), and [Bhagwan Sahai Carpender v. Union of India, \(1989\) 2 SCC 299 : AIR 1989 SC 1215](#), their Lordships observed that the State is obliged to make casual employees the same payment as the regular employees are getting because the emphasis in the decisions of the Court is upon the feature that equal pay for equal work is a Constitutional goal to our socialist polity. The Supreme Court in direction **(1) gave a clear direction to sanction annual grade increments to casual employees in the Government establishment.**”

19. In view of the aforesaid, the petitioners are held entitled to the minimum of pay scale of pay, which on addition of the annual increments changes from time to time, at par with regular employees on respective corresponding posts.

20. The submission of the learned Government Pleader with respect to the extent of establishment pursuant to the G.O.Ms.No.57 dated 13.02.2019 and G.Ms.No.70 dated 29.02.2020, shall have no effect on the applicability of the principle of equal pay for equal work to the case of contractual employees, as the law declared by the Hon'ble the Apex Court.

21. The writ petition succeeds and is allowed. The respondents are hereby directed to grant minimum of pay scale with annual grade increments from time to time to the petitioners at par with the regular employees discharging the duties corresponding to their respective posts in Gram Panchayats. No order as to costs.

⁴ 2012 (1) ALD 26 (DB)



Consequently, the Miscellaneous Petitions, if any, shall also stand closed.

Date:21.04.2022,

Note:

L.R copy to be marked

B/o.

Gk

RAVI NATH TILHARI, J



HON'BLE SRI JUSTICE RAVI NATH TILHARI

WRIT PETITION No.1352 of 2021

21.04.2022

Gk