

A daily wager entitled to minimum pay

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Chandigarh, November 17

A Full Bench of the Punjab and Haryana High Court has ruled that a daily wager, ad hoc or contractual appointee hired against regular sanctioned posts after undergoing a fair selection process shall be entitled to "minimum of regular pay scale from the date of engagement".

The significant directions by the Bench of Justice Hemant Gupta, Justice Surya Kant and Justice Jaswant Singh came on a bunch of petitions filed by Avtar Singh and other petitioners against the State of Punjab and other respondents.

The Bench asserted: "We hold that daily wagers, ad hoc or contractual appointees are not entitled to minimum of the regular pay scale from the date they were engaged merely for the reason that the physical activity carried out by the daily wager and the regular employee is similar, but such general principle shall be subject to the following exceptions:

"A daily wager, ad hoc or contractual appointee against the regular sanctioned posts, if appointed after undergoing a selection process based upon fairness and equality of opportunity to all other eligible candidates, shall be entitled to minimum of the regular pay scale from the date of engagement.

"But if daily wagers, ad hoc or contractual appointees are not appointed against regular sanctioned posts and their services are availed continuously, with notional breaks, by the State Government or its instrumentalities for a sufficient long period i.e. for 10 years, such daily wagers, ad hoc or contractual appointees shall be entitled to minimum of the regular pay scale without any allowances on the assumption that work of perennial nature is available and having worked for such long period of time, an equitable right is created in such category of persons.

"Their claim for regularisation, if any, may have to be considered separately in terms of a legally permissible scheme.

"In the event, a claim is made for a minimum pay scale after more than three years and two months of completion of 10 years of continuous working, a daily wager, ad hoc or contractual employee shall be entitled to arrears for a period of three years and two months".

The matter was placed before the Full Bench in "terms of the order passed by the single judge of this Court for consideration of issue of equal pay for equal work in respect of daily wage employees of the state government".