



2026:AHC-LKO:12697-DB

Reserved on 19.12.2025

Delivered on 18.02.2026

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

SPECIAL APPEAL No. - 92 of 2024

State of U.P. through Prin. Secy. Deptt. of Horticulture and Food
Processing U.P. Lko. and others

.....Appellant(s)

Versus

Smt. Savitri Devi

.....Respondent(s)

Counsel for Appellant(s)	: V.P. Nag (A.C.S.C.)
Counsel for Respondent(s)	: Dr. Deepti Tripathi

Chief Justice's Court

**HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE JASPREET SINGH, J.**

(Per : Arun Bhansali, CJ)

1. This appeal is directed against the order dated 24.03.2023 passed by learned Single Judge in Writ-A No. 10737 of 2019, whereby the learned Single Judge came to the conclusion that the respondent was at least entitled to the minimum of pay of Class IV employee and ordered that from the date of the order, if her work and conduct is satisfactory, she be paid minimum of pay of Class IV employee and that the order would not confer any right on her claiming permanent employment or confirmation which is to be governed in accordance with the relevant rules.

2. The writ petition was filed by the respondent *inter alia* with the claim that she was appointed on a Class IV post against a clear vacant post as Mali in the year 2009 and since then is continuously working on the post as per service rules without any break.

3. Submissions were made that as she was working on the post since last 9 years, therefore, she is entitled to get the benefit of minimum of pay-scale as laid down in **State of Punjab and others vs. Jagjit Singh and others : AIR 2016 SC 5176**. It was claimed that the status of the daily wagers engaged in a project work is quite different to that of the daily rated earner engaged in Horticulture Department, which is not seasonal but perennial and permanent in nature.

4. It was also claimed that as the respondent was discharging the same duties like regular Mali, she was entitled to the minimum of the pay-scale, while she is being paid only Rs.174/- per day, whereas regular pay-scale of group-D employee is Rs.7000/- plus dearness allowance per month.

5. When the petition initially came up before a learned Single Judge on 10.03.2022, the writ petition was allowed. Learned Single Judge noted the contentions and directed to pay the respondent the minimum of pay-scale which is being paid to similarly situated regular employees performing the same work.

6. The said order came to be set aside in Special Appeal Defective No. 242 of 2022 on 10.11.2022 and the writ petition was restored to the board of learned Single Judge for deciding the same afresh. It was required of the learned Single Judge to give a clear finding as to whether the respondent had been discharging the functions which are similar to the functions being discharged by regularly appointed class-IV employees in the department concerned. The Division Bench further directed that the respondent shall be paid minimum wages as prescribed by the State Government including the arrears.

7. Whereafter, by the order impugned dated 24.03.2023, while allowing the petition, the following order has been passed:

“1. In compliance of the order dated 20.03.2023 passed by this Court, Sri Avaniish Kumar Srivastava, Potato and Vegetable Development Officer, Aliganj, Lucknow is present in the Court. He fairly submits that the petitioner has been working in his office in the Seed Processing Unit of Horticulture Department under him since 2010. She has been paid remuneration as daily wagger as her engagement was as a daily wagger employee. He has also not disputed the fact that except for holidays and weekly off, she has been working continuously since her appointment. It is also submitted that all the Class IV posts, which are sanctioned are filled up, however, there is work for more employees and, therefore, the Unit has engaged the petitioner and few others on daily wage basis.

2. Learned counsel appearing for the petitioner submits that husband of the petitioner was also employed in the same manner but because of his bad health as he is bed ridden, he stopped going to the Unit since 2018.

3. The petitioner has been continuously working since 2010 on daily wage basis. It appears that the posts of Class IV, which are sanctioned, are not enough to mean the work in the Unit and, therefore, some more hands have been employed on daily wage basis. Though the petitioner has worked for around 13 year in Horticulture Department but she is being paid very meager amount of Rs.213/- per day, which is not even as per the minimum wages which are paid under MGNREGA. It is also not disputed that at no point in time petitioner's services were discontinued and she has been continuously working.

4. In view thereof, I am of the opinion that the petitioner is at least entitled to the minimum of pay of Class IV employee. Thus, it is provided that from the date of this order, if petitioner's work and conduct is satisfactory and she should be paid minimum of pay of Class IV employee. This order would not confer any right on the petitioner claiming permanent employment or confirmation, which is to be governed in accordance with the relevant rules.

5. With the aforesaid direction, the petition stands disposed of.”

8. Learned counsel for the appellants made submissions that once the writ petition was restored and remanded to learned Single Judge to decide afresh by recording clear finding regarding respondent discharging functions similar to the functions being discharged by regularly appointed class-IV employees, without recording finding in this regard, the order impugned could not have been passed. Further submissions were made that the respondent is a daily wage unskilled worker being engaged on daily wage basis as per need to perform routine work such as cleaning and watering the plants and is being paid wages as prescribed by the Government from time to time and is not engaged on any substantive vacant post of group-D/Mali nor performing similar work and duties as being performed by the regular group-D employee/Mali.

9. Further submissions were made that even in terms of judgement in **Jagjit Singh (supra) and Sabha Shanker Dube vs. Divisional Forest Officer and others : (2019) 12 SCC 297**, she is not entitled to the benefit of minimum of the pay-scale and consequently the order impugned deserves to be quashed and set aside.

10. It was additionally submitted that as the respondent was pursuing contempt proceedings, by order dated 14.03.2024, in compliance of impugned judgment, minimum of the pay-scale as admissible to regularly appointed group-D employees of the department was granted to the respondent subject to outcome of the special appeal to be filed.

11. Counsel for the respondent supported the order impugned and made submissions that the claim of the respondent was categorical regarding discharging the duties similar to class-IV/Mali and as such the plea sought to be raised has no substance. Submissions were made that learned Single Judge has appropriately dealt with the issue and once the order impugned has been complied with, there is no reason now to pursue the present special appeal and the same, in fact, deserves to be dismissed as infructuous. Reliance was placed on the judgment in the case of **Jagjit Singh (supra) and Sabha Shanker Dube (supra)**.

12. We have considered the submissions made and have perused the material available on record.

13. A perusal of the order passed by the appellants on 14.03.2024 (Annexure-6 to the affidavit in support of the Stay Application in the present appeal), reveals that the same has been passed subject to the outcome of the pending writ petition/contempt petition and filing of the special appeal against the order passed. Once the compliance has been made during pendency of the contempt petition subject to the outcome of the pending/to be filed litigation or appeal, the same by itself would not render the present appeal infructuous.

14. When the writ petition was allowed on earlier occasion, the Division Bench while setting aside the said order, observed and directed/requested as under:

“Order on Appeal

The issue raised in this special appeal has been decided by this Court by means of judgment and order dated 17.10.2022 passed in Special Appeal No.446 of 2021, wherein the Court has observed that in view of the law laid down by Hon'ble Supreme Court in the case of Sabha Shanker Dube Vs. Divisional Forest Officer and others, reported in (2019) 12 SCC 297, the benefit of minimum of the pay scale is admissible to temporary/ ad-hoc/ daily wage employees as also to a casual employee only when it is established that such an employee has been discharging duties similar to the duties being discharged by the regular employee.

When we, thus, peruse the judgement under appeal herein passed by learned Single Judge, what is apparent is that no such finding has been recorded and accordingly in absence of such a finding, straightaway giving direction to the appellants to pay the respondent minimum of the pay scale admissible to a regularly appointed Class IV employee does not appear to be warranted.

In view of the aforesaid, this special appeal is allowed and the judgment and order dated 10.03.2022 passed by learned Single Judge in Writ-A No.10737 of 2019 is hereby set aside.

The writ petition is restored to the board of learned Single Judge for deciding the same afresh. Learned Single Judge is requested to expedite the proceedings of the writ petition and while doing so he is also requested to give a clear finding as to whether the respondent has been discharging the functions which are similar to the functions being discharged by regularly appointed class-IV employees in the department concerned.

It has been informed by learned counsel for the respondent that once the contempt petition was filed, the appellants have not paid even the minimum wages to the respondent, though she has been discharging her duties.

We, thus, direct that the respondent shall be paid minimum wages as prescribed by the State Government including the arrears within a period of three weeks from today, failing which the Court may be compelled to initiate the contempt proceedings against the authority/ officer concerned.”

15. The stipulation made by the Division Bench was very clear and specific, requiring a clear finding as to whether the respondent has been discharging the functions which are similar to the functions being discharged by regularly appointed class-IV employees in the department concerned.

16. The said requirement arose on account of the specific denial by the appellants in response to the writ petition *inter alia* claiming as under:

“6. That the contents of para 4 of the writ petition as stated are not admitted hence denied. It is submitted that the petitioner was engaged as unskilled daily/seasonal labour in 2011. It is further submitted that her engagement was never made against any sanctioned post. It is also relevant to point out here that the work has been taken from the petitioner on the basis of availability of work and budget and accordingly petitioner was paid wages as prescribed by the Government. It is further submitted that regular employees appointed on the post of Mali, do skilled jobs like cutting,

grafting, budding, hedging, enlinching etc. whereas petitioner does unskilled work like cleaning, digging, watering, piling etc. and as such there is no comparison between regular employees of the department and unskilled seasonal labours.

7. That the contents of para 5 of the writ petition as stated are not admitted as stated hence denied. It is submitted that the petitioner was engaged as unskilled daily/seasonal labour in 2011. It is further submitted that her engagement was never made against any sanctioned post. It is also relevant to point out here that the work has been taken from the petitioner on the basis of availability of work and budget and accordingly petitioner was paid wages as prescribed by the Government. It is further submitted that regular employees appointed on the post of Mali, do skilled jobs like cutting, grafting, budding, hedging, enlinching etc. whereas petitioner does unskilled work like cleaning, digging, watering, piling etc. and as such there is no comparison between regular employees of the department and unskilled seasonal labours”

17. However, apparently the indication made in the Division Bench judgement requiring specific findings, was not adverted to and, as quoted hereinbefore, the only observations made, were that “the respondent was working since 2010 on daily wage basis, sanctioned class-IV posts are not enough to man the work in the Unit and as such, more hands were employed on daily wage basis, the respondent was being paid very meager amount per day and that at no point of time, her services were discontinued and she was continuously working”, based on which, while disposing of the writ petition, the directions as noticed hereinbefore were given.

18. The order impugned is apparently deficient, inasmuch as, besides the fact that the directions of the Division Bench having been ignored, the basic requirements as laid down in the case of **Jagjit Singh (supra)** and **Sabha Shanker Dube (supra)** have not even been adverted to.

19. The Hon’ble Supreme Court in the case of **Jagjit Singh (supra)**, after thorough discussions on the aspect of equal pay for equal work, came to the following conclusion:-

“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 employees concerned (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 temporary employees concerned 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 para 42 hereinabove. There can be no doubt, that the principle of "equal pay for equal work" would be applicable to all the temporary employees concerned, so as to vest in them the right to claim wages on a 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 temporary employees concerned, 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."

(emphasis supplied)

20. A perusal of above exposition would reveal that similar duties and responsibilities discharged by daily wage employees, adhoc appointees, employees appointed on casual basis, contractual employees and the like were compared with the duties and responsibilities being discharged by regular employees holding the same/corresponding post and it was held that the said exercise would require application of parameters of the principles of 'equal pay for equal work' and in the matter in hand, the Hon'ble Court came to the conclusion that all the temporary employees in the bunch of appeals were appointed against posts, which were also available in the regular cadre/establishment, based on which the Court came to the conclusion that duties and responsibilities discharged by the temporary employees were the same as were being discharged by the regular employees.

21. For the said purpose, in para 42 of the judgement in **Jagjit Singh (supra)**, the Court deduced the parameters with regard to determination of principle of equal pay for equal work, inter-alia as under :

"42.1. The "onus of proof", of parity in the duties and responsibilities of the subject post with the reference post under the principle of "equal pay for equal work" lies on the person who claims it. He who approaches the court has to establish that the subject post occupied by him requires him to discharge equal work of equal value, as the reference post (see Orissa University of Agriculture & Technology case, UT Chandigarh, Admn. v. Manju Mathur, SAIL case, and National Aluminium Co. Ltd. Case)."

(emphasis supplied)

22. It has been laid down that onus of proof of parity in duties and responsibilities with the reference post, is on the person who claims it.

23. From the above, even in terms of the judgement in the case of **Jagjit Singh (supra)**, it is apparent that equal pay for equal work and consequential minimum of the pay-scale can be claimed/granted only with reference to a post which is sanctioned in the department, wherein the daily wager, adhoc appointee, employee appointed on casual basis, contractual employee has been engaged and, therefore, the said determination also is required to be made. In absence thereof, the direction for payment of minimum of the pay-scale cannot be sustained.

24. As noticed hereinbefore, judgement impugned is totally silent qua the required parameters as directed by the Division Bench as well as the judgements of the Supreme Court and on assumptions, the petition has been allowed, which order cannot be sustained.

25. Consequently, the special appeal is **allowed**.

26. Order impugned dated 24.03.2023 passed by the learned Single Judge in Writ-A No. 10737 of 2019 is set aside. The matter is remanded back to the learned Single Judge to hear and decide the writ petition in terms of the observations and parameters as laid down hereinbefore as well as the previous order in the special appeal passed by this Court on 10.11.2022.

27. In view of the fact that the appellants have started making payment of minimum of the pay-scale of group-D employee to the respondent in compliance of the order of the learned Single Judge subject to outcome of the appeal, they shall continue to make the said payment. However, the said payment made shall remain subject to the final outcome of the writ petition.

28. It is expected that the writ petition shall be heard and decided with utmost expedition.

(Jaspreet Singh, J.) (Arun Bhansali, CJ.)

February 18, 2026

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