



**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

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Decided on :15.07.2025

CWP-5297-2021 (O&M)

BALJEET SINGH

. .Petitioner

Versus

STATE OF PUNJAB AND OTHERS

. . . Respondents

CWP-13107-2023 (O&M)

WARYAM SINGH KAHLON

. .Petitioner

Versus

STATE OF PUNJAB AND OTHERS

. . . Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

PRESENT: Mr. Jaspal Singh Maanipur, Advocate
for the petitioners

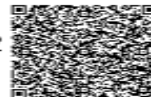
Mr. Rahul Rampal, Additional Advocate General, Punjab.

Mr. Ranjit Singh Kalra, Advocate
for respondents No. 4 & 5.

HARSIMRAN SINGH SETHI, J. (Oral)

1. By this common order, a set of writ petitions, the details of which have been given in the heading, are being disposed of as both the petitions involve the same question of law on similar facts. For the sake of convenience, facts are drawn from CWP-5297-2021.

2. Learned counsel for the petitioner submits that though the petitioner, was initially appointed as a clerk in the year 1985 on daily wage basis but his services were terminated by the respondents in the year 1987



and he was once again re-appointed after a period of approximately six years as a clerk on Ad-hoc basis vide appointment order dated 26.08.1993 in a regular pay-scale which services were again terminated in the year 1995 and the said termination was made a subject matter of consideration before the labour Court and ultimately, vide impugned award dated 17.07.2001 (Annexure P-1), the termination of services of the petitioner on 31.01.1995 was set-aside by the labour Court with the observation that the petitioner shall be reinstated in service with continuity of service on the same status as he was enjoying on the day when his services were terminated, whereas, the respondents rather than reinstating the petitioner as a clerk on the ad-hoc basis keeping in view the terms and conditions of the appointment order dated 26.08.1993, he was being treated as a daily wager so as to grant him the benefit of reinstatement in service on daily wage basis, which was inadmissible.

3. Learned counsel for the respondents submits that respondents have no problem in treating the petitioner in service upon reinstatement on the same terms and conditions on which he was initially appointed in the year 1986 as clerk on daily wage basis as the 1993 appointment as clerk on ad-hoc basis in regular pay-scale was subsequent and the petitioner was also claiming the benefit from the year 1985.

4. I have heard learned counsel for the parties and have gone through the case file with their able assistance.

5. The claim of the petitioner is based upon the findings and the relief granted by the labour Court while passing the impugned award dated 17.07.2001 (Annexure P-1). The relevant paragraph of the said award is as under:-



“13) Baljit singh workman, appearing as WW-I has deposed that his services were terminated on 31-1-95. He has also deposed that from 13-2-95, he is working with the respondent on contract basis at the rate of Rs.2000/- per month, After 13-2-95, he is performing some duties and working on the same seat on which he was working for whole period before his termination. So, from the statement of Baljit Singh Workman, it is clear that the workman remained gainfully employed after his termination. As such, he is held not entitled to get any back wages.

14) In view of my findings on the above issues, the reference is answered in favour of the workman who is ordered to be reinstated with continuity of service, but without back wages He is already working with the management. thout No order as to costs.”

6. A bare perusal of the above would show that the order of termination of the services of the petitioner dated 26.01.1995 which came in effect on 31.01.1995 was held to be bad and petitioner was directed to be reinstated in the same post with continuity on which he was earlier working for whole of the period before his termination. The benefit of reinstatement in service with continuity was devoid of benefit of back wages.

7. The question which has been raised before this Court is as to whether the petitioner is to be reinstated on the post on which he was discharging the duty as on 31.01.1995 on ad-hoc basis or, on the post, he was



initially appointed in the year 1985 on daily wage basis.

8. It may be noticed that the initial appointment of the petitioner-workman as a clerk on daily wage basis is on 28.08.1985, which came to an end in the year 1987. He remained out of service for a considerable time i.e. approximately six years. He was again re-appointed by the respondents as clerk on ad-hoc basis on 30.08.1993 in a regular pay scale. He remained working on the said post on the adhoc basis in a regular pay-scale upto 31.01.1995 on which date his services were again terminated and the said termination was made a subject matter before the labour Court and labour Court vide impugned order dated 17.07.2001 (Annexure P-1), set aside the termination order of the petitioner dated 31.01.1995. That being so, the petitioner should have been reinstated in service as adhoc employee rather than a daily wager on which status he was not working at the time of his termination in January, 1995.

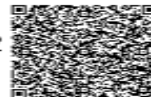
9. Concededly, as per the appointment order dated 30.08.1993, the petitioner was appointed on ad-hoc basis as the clerk in a regular pay-scale of 930-1800 with the initial start of Rs. 1000/- per month. Rather than granting benefit of reinstatement in service on the said post with the said status, the respondent treated the petitioner as a daily wager on which post he was appointed in year 1985 and had worked only upto the year 1987. It should be noted that the date of termination i.e. 31.01.1995 which was made the subject matter for the adjudication before the labour Court, the petitioner was concededly working as a clerk on ad-hoc basis in a regular pay-scale, hence, the petitioner was liable to be reinstated in service on the said post of clerk on ad-hoc basis keeping in view the findings given by labour Court vide impugned award dated 17.07.2001 (Annexure P-1).



10. The action on the part of the respondents in treating the petitioner as a daily wage employee for the purpose of realization of award dated 17.07.2001 is incorrect and the same cannot be accepted. Learned counsel for the respondents further submits that the petitioner was asking for the benefit qua continuity in service from the year 1985 on-wards.

11. It may be noticed that, the fact that the respondents even while implementing the impugned award 17.07.2001 (Annexure P-1) from the year 1985 has not given the benefit of continuity in service to the petitioner for the period starting from the year 1987 till 1993. Hence, how can it be said that the petitioner has been given the benefit of continuity in service under the terms and conditions of the impugned award dated 17.07.2001 (Annexure P-1) passed by labour Court from the date he was appointed. In fact, the respondents tried to mislead this Court also while stating that the benefit of continuity in service has been given to the petitioner from his initial date of appointment i.e. 1985 which is also incorrect.

12. As per the respondents, the petitioner is to be treated as a daily wager from 1985 upto the date of his direct recruitment. It may be noticed that once, the impugned award dated 17.07.2001 (Annexure P-1) was specific that the petitioner is to be reinstated in service on the post on which he was working on the date of his termination i.e. 31.01.1995 and concededly, the petitioner was not working on daily wage basis, rather he was working on adhoc basis on a regular scale in the cadre of clerk, it was incumbent upon the respondents to reinstate the petitioner in service on the said post of clerk as an adhoc employee starting from year 1995 onwards by giving him the benefit of continuity in service as per the above which had attained finality between the parties.



13. Keeping in view the above, the writ petition is allowed and the petitioner is directed to be treated as an adhoc clerk as per the terms and conditions of the appointment order dated 30.08.1993 and his entitlement under the award dated 17.07.2001 will be computed by keeping in view the said fact in mind.

14. The entitlement of the petitioner under the award and subsequent service rendered will be recalculated on the basis of the order passed today and any payment made to the petitioner for the period in question will be adjusted and in case, the entitlement of the petitioner comes more than already paid, then the difference will be paid to the petitioner.

15. In case, the petitioner becomes entitled for any other benefit by treating him an ad-hoc employee from the year 1993, the said admissible benefit will also be extended to the petitioner by the respondents.

16. Let the present order be complied with within the period of eight weeks from today.

17. The writ petition is allowed in above terms.

18. Pending civil miscellaneous application, if any, stands disposed of.

19. A photocopy of this order be placed on the file of connected case.

(HARSIMRAN SINGH SETHI)
JUDGE

15.07.2025

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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No