

**THE HON'BLE SRI JUSTICE A.V.SESHA SAI  
AND  
THE HON'BLE SRI JUSTICE G.RAMAKRISHNA PRASAD**

**WRIT PETITION No.3129 OF 2021**

**ORDER:** (*Per Hon'ble Sri Justice A.V.Sesha Sai*)

This Writ Petition, filed under Article 226 of the Constitution of India, calls in question the proceedings of respondent No.1-State Government issued vide Letter No.838/Courts, B/2020 dated 15.07.2020 and the consequential proceedings of respondent No.2-Registrar (Administration), High Court of Andhra Pradesh, vide proceedings Roc.No.1717/E1/2009 dated 03.09.2020.

2. Petitioners herein are presently working as Computer Assistants in various District Courts in the State of Andhra Pradesh on contract basis. By way of a letter bearing Roc.No.7316/2004-Estt. dated 25.04.2005, the Registrar General, High Court of Andhra Pradesh sought permission of the State Government to appoint 29 Computer Assistants on contract basis by adopting the procedure as was done in the case of the Computer Personnel under G.O.Rt.No.125 Law (LA & J)-Home-Cts.D.) Department dated 23.01.2004.

3. The State Government, vide G.O.Rt.No.837 LAW (LA & J-HOME-COURTS.D1) Department dated 20.06.2006, accorded permission to the Registrar General, High Court of Andhra Pradesh to adopt the same procedure as was adopted for engaging the services of Computer Personnel, vide G.O.Rt.No.125 Law (LA&J-Home-Cts.D) Department dated 23.01.2004 for engaging the services of the

Pradesh Technology Services on contract basis and on consolidated payment.

4. Vide Circular ROC.No.1/2005-CPS dated 07.01.2005 and the Circular Orders vide ROC.No.1/2005-CPS dated 20.01.2005, respondent No.2 herein issued instructions relating to mode of recruitment and qualifications. Respondent No.2 herein, vide ROC.No.461/2006-RC, dated 01.08.2006, requested all the District and Sessions Judges to take steps as per the procedure laid down in the Circulars dated 07.01.2005 and 20.01.2005 and to send panel of names to the High Court for taking further action. According to the petitioners, in pursuance of the above said instructions and strictly adhering to the instructions issued in the Circulars dated 07.01.2005 and 20.01.2005, petitioner Nos.1 to 10 herein were appointed as Computer Assistants and the particulars of the petitioners, such as their qualifications and dates of appointments are as follows:

Sl.No.	Name	Qualifications	Date of Appointment
1	Vallepu Naga Raju	B.Com., PGDCA (Hardware and Networking)	17.08.2009
2	S.Daniel Prabhakar	B.Com., PGDCA	04.01.2008
3	Angajala Aruna	B.Com., LLB, PGDCA	05.01.2008
4	M.Daniel	B.A., PGDCA (Hardware)	22.04.2008
5	D.Prasanna Lakshmi	M.Sc. and PGDCA	05.09.2009
6	Akula Subrahmanyam	Bachelor of Computer Applications	22.11.2010
7	B.G.Chandra Prasad Varma	M.A., UGDPEd and PGDCA	17.04.2014
8	M.Jabeed Ali	Inter, ITI, PGDCA (Hardware and Networking)	24.03.2016

	Reddy	MCSE	
10	Komarapu Sunil	M.C.A.	02.01.2019

5. Initially, in accordance with the Circular dated 20.01.2005, the pay/remuneration of the petitioners was fixed as Rs.4,500/- per month. The State Government, vide G.O.Ms.No.3 Finance (SMPC-II) Department dated 12.01.2011, fixed the remuneration of the Personnel working on contract/outsourcing basis and paragraph Nos.5 and 6 of the said governmental order read as follows:

"5. After careful examination of the matter, Government hereby order that the remuneration of the personnel working on contract/outsourcing basis be revised in respect of the following categories as shown below:

Sl. No.	Name of the Contract/ Outsourced Category	Enhanced Remuneration
1)	Junior Assistant	Rs.8,400/- p.m.
2)	Typist	Rs.8,400/- p.m.
3)	Junior Steno	Rs.8,400/- p.m.
4)	Senior Steno	Rs.10,900/- p.m.
5)	Driver	Rs.8,000/- p.m.
6)	Office Sub-ordinate (Attender/Last Grade Services)	Rs.6,700/- p.m.
7)	Lift Operator	Rs.7,700/- p.m.
8)	Data Entry Operators	Rs.9,500/- p.m.
9)	Data Processing Officers	Rs.11,500/- p.m.

6. In respect of categories other than those mentioned above, the remuneration shall be fixed not exceeding the minimum of the time scale attached to the equivalent category of the relevant post in the Revised Scales of Pay-2010."

6. Pursuant to the said G.O.Ms.No.3 Finance (SMPC-II) Department dated 12.01.2011, after giving information to the government, vide Letter ROC.No.1717/E1/2009 dated 17.03.2011, respondent No.2, vide ROC.No.1717/E1/2009 dated Nil.03.2011, communicated the decision to all the District and Sessions Judges to enhance remuneration from Rs.4,500/- to Rs.11,500/- per month, i.e., the amount on par with the remuneration fixed for Data Processing Officers, i.e., Category-9 of G.O.Ms.No.3 Finance (SMPC-II) Department dated 12.01.2011. It is very much evident from a reading of the above said proceedings dated Nil.03.2011 of respondent No.2 that respondent No.2 took into consideration the nature of duties and functions performed by the petitioners, arrived at a decision to enhance the remuneration from Rs.4,500/- per month to Rs.11,500/- per month on par with the Data Processing Officers covered by G.O.Ms.No.3 dated 12.01.2011. The State Government issued orders, vide G.O.Ms.No.151 Finance (HR-I – Plg. & Policy) Department dated 08.08.2016 and enhanced the remuneration of contract and outsourcing employees and Annexure-II attached to the said governmental order shows that the remuneration payable to the Data Processing Officers stood enhanced to Rs.17,500/- per month. Subsequently, the Government of Andhra Pradesh, pursuant to the correspondence made by the Registrar (Administration) of the composite High Court of Andhra Pradesh, revised the remuneration of 16 Computer Assistants, including the petitioners herein and fixed the same at Rs.17,500/-, obviously, in terms of G.O.Ms.No.151 Finance (HR-I – Plg. & Policy) Department dated 08.08.2016. As a consequence

of the same, respondent No.2 herein, vide ROC.No.1717/E1/2009 issued instructions to all the Unit Heads for taking necessary action so as to enable the Computer Assistants to draw the amounts @ Rs.17,500/- per month.

7. The State Government, vide G.O.Ms.No.12 Finance (HR.I – Plg. & Policy) Department dated 28.01.2019 issued orders, extending the minimum time scale to the contract employees working in the Government Departments in the Revised Pay Scales, 2015, with effect from 01.04.2019. The petitioners herein submitted a representation to the High Court of Andhra Pradesh on 19.12.2019, requesting enhancement of their remuneration from Rs.17,500/- to Rs.31,460/-, i.e., the minimum pay attached to the post of Data Processing Officers as per the Revised Pay Scales, notified vide G.O.Ms.No.46 Finance (HRM.V-PC) Department dated 30.04.2015. The matter was referred to the State Government by respondent No.2. The State Government, vide Letter No.838/Courts.B/2020 dated 15.07.2020, turned down the request for enhancement to Rs.31,460/- on par with the minimum time scale fixed for Data Processing Officers on the ground that there is no scale of pay to the post of Computer Assistant in the Revised Pay Scales, 2015, and the posts are sanctioned on contract basis with consolidated remuneration only. Respondent No.2, by way of the proceedings ROC.No.1717/E1/2009, informed the decision of the State Government, rejecting the request of the petitioners. In the above background, the present Writ Petition came to be instituted, questioning the proceedings of respondent No.1 dated 15.07.2020 and

8. Heard Sri M.Vijay Kumar, learned Senior Counsel representing Sri Manoj Kumar Bethapudi, learned counsel for the petitioners, learned Government Pleader for respondent No.1 and Sri N.V.Sumant, learned Standing Counsel for respondent No.2, apart from perusing the material available on record.

9. Learned Senior Counsel, Sri M.Vijay Kumar, contends that the action impugned in the present Writ Petition is highly illegal, arbitrary, unreasonable and violative of Articles 14 and 21 of the Constitution of India and opposed to the principle of 'equal pay for equal work'. It is further contended by the learned counsel that the nature of duties, which the petitioners are discharging is permanent and only by due process of law, undertaken by the respondents, the petitioners herein were appointed long back. It is further contended that having extended the benefit earlier, there is absolutely no justification on the part of the respondent-authorities in not extending the same by way of the impugned orders and the reason assigned by respondent No.1 in the impugned letter dated 15.07.2020 that there is no scale of pay to the post of Computer Assistant in the Revised Pay Scales, 2015, and as the posts are sanctioned on contract basis, is highly irrational and unreasonable. In support of his submissions and contentions, learned Senior Counsel, Sri M.Vijay Kumar places reliance on the judgment of the Hon'ble Apex Court in the case of *State of Punjab and others v. Jagjit Singh and others*<sup>1</sup>.

10. *Per contra*, strenuously opposing the Writ Petition, it is contended by the learned Government Pleader that there is absolutely no illegality nor there exists any infirmity in the impugned action and in the absence of the same, the questioned orders are not amenable for any judicial review under Article 226 of the Constitution of India. It is further contended by the learned Government Pleader that in the absence of any scale of pay indicated for the post in which the petitioners are working in the Revised Pay Scales, the extension of the same in favour of the petitioners herein does not arise and the reason assigned by respondent No.1 in the impugned letter dated 15.07.2020, by any stretch of imagination, cannot be faulted. It is further submitted that the ratio laid down in the judgment of the Hon'ble Apex Court on which the learned counsel for the petitioners is placing reliance is not applicable to the facts of the case on hand.

11. In the above background, now the issue which this Court is called upon to consider and answer in the present Writ Petition is:

"Whether the respondent-authorities are justified in denying the minimum time scale to the petitioners herein as per G.O.Ms.No.12 dated 28.01.2019 and whether the petitioners herein are entitled for minimum in the time scale of pay Rs.31,460/- attached to the post of Data Processing Officer with effect from 01.04.2019?"

12. There is absolutely no controversy with regard to the realities, such as, appointment of the petitioners herein as Computer Assistants in various District Courts in the State of Andhra Pradesh, their periodical review of the quantum of remuneration earlier from

Rs.4,500/- to Rs.17,500/-. According to the pleadings in the affidavit filed in support of the Writ Petition, the petitioners herein are highly qualified and admittedly have knowledge in the computer applications. The information available before this Court, in clear and vivid terms, demonstrates that the petitioners herein underwent process of recruitment in terms of the Circulars dated 07.01.2005 and 20.01.2005 issued by respondent No.2. It is also an admitted reality that all the petitioners herein were appointed after a process of selection undertaken, but not through any agency. Earlier when G.O.Ms.No.3 Finance Department dated 12.01.2011 came to be issued by the Government, enhancing the pay of various categories of posts, including Data Processing Officers, the petitioners herein were extended the revised remuneration shown in the said governmental order for the post of Data Processing Officer i.e., Rs.11,500/- per month. It is also significant to note that the respondent-authorities, obviously keeping in view the nature of duties and the functions being performed by the Computer Assistants (petitioners herein) took a decision to enhance the remuneration from Rs.4,500/- to Rs.11,500/- as per G.O.Ms.No.3 Finance Department dated 12.01.2011. It is also not in dispute that the respondents herein were paying the amount @ Rs.11,500/- per month after such enhancement. It is also pertinent to note that pursuant to the orders of the State Government, vide G.O.Ms.No.151 Finance Department dated 08.08.2016, the State Government issued G.O.Rt.No.769 Law (L & LA & J HOME COURTS-8) Department dated 21.09.2017, extending the revised remuneration of Rs.17,500/- payable to the Data Processing Officers. All these



days, the respondents have been paying the petitioners @ Rs.17,500/- per month in terms of the aforesaid orders. Obviously, the problem started subsequent to the order of the State Government, vide G.O.Ms.No.12 dated 28.01.2019 which extended the minimum time scale to the contract employees working in various Government Departments in the Revised Pay Scales, 2015 with effect from 01.04.2019. On the representation made by the petitioners herein, when respondent No.2 herein addressed a letter to respondent No.1-State Government, by way of the impugned letter dated 15.07.2020, the State Government rejected the request of the petitioners herein for payment of their remuneration on par with the Data Processing Officers @ Rs.31,460/- per month on the ground that there is no scale of pay attached to the Computer Assistants in the Revised Scales, 2015. The said reason assigned by respondent No.1 herein, in the considered opinion of this Court, cannot stand for the twin tests of reasonableness and rationality. As rightly pointed out by the learned Senior Counsel, appearing for the petitioners, having extended the benefit of revised remuneration earlier on par with the Data Processing Officers, there is absolutely no justification on the part of the respondents herein in denying the benefit of extension to the petitioners now and the same is highly iniquitous and reprehensible. In this context, it may be appropriate to refer to the judgment of the Hon'ble Apex Court in *Jagjit Singh's* case (1 supra). The Hon'ble Apex Court in the aforesaid judgment at paragraph Nos.42, 42.2, 42.5, 43, 44.4, 44.5, 46.3, 54, 55, 57, 58, 59 and 60, ruled in the following manner:

"42. All the judgments noticed in paragraphs 7 to 24 hereinabove, pertain to employees engaged on regular basis, who were claiming higher wages, under the principle of 'equal pay for equal work'. The claim raised by such employees was premised on the ground, that the duties and responsibilities rendered by them, were against the same post for which a higher pay-scale was being allowed, in other Government departments. Or alternatively, their duties and responsibilities were the same, as of other posts with different designations, but they were placed in a lower scale. Having been painstakingly taken through the parameters laid down by this Court, wherein the principle of 'equal pay for equal work' was invoked and considered, it would be just and appropriate, to delineate the parameters laid down by this Court. In recording the said parameters, we have also adverted to some other judgments pertaining to temporary employees (also dealt with, in the instant judgment), wherein also, this Court had the occasion to express the legal position with reference to the principle of 'equal pay for equal work'. Our consideration, has led us to the following deductions:

42.2. The mere fact that the subject post occupied by the claimant, is in a "different department" vis-a-vis the reference post, does not have any bearing on the determination of a claim, under the principle of 'equal pay for equal work'. Persons discharging identical duties, cannot be treated differently, in the matter of their pay, merely because they belong to different departments of Government (see – the Randhir Singh case and the D.S. Nakara case).

42.3. The principle of 'equal pay for equal work', applies

classification or irrational classification (see – the Randhir Singh case). For equal pay, the concerned employees with whom equation is sought, should be performing work, which besides being functionally equal, should be of the same quality and sensitivity (see – the Federation of All India Customs and Central Excise Stenographers (Recognized) case, the Mewa Ram Kanojia case, the Grih Kalyan Kendra Workers' Union case<sup>6</sup> and the S.C. Chandra case).

42.5. In determining equality of functions and responsibilities, under the principle of 'equal pay for equal work', it is necessary to keep in mind, that the duties of the two posts should be of equal sensitivity, and also, qualitatively similar. Differentiation of pay-scales for posts with difference in degree of responsibility, reliability and confidentiality, would fall within the realm of valid classification, and therefore, pay differentiation would be legitimate and permissible (see – the Federation of All India Customs and Central Excise Stenographers (Recognized) case and the State Bank of India case). The nature of work of the subject post should be the same and not less onerous than the reference post. Even the volume of work should be the same. And so also, the level of responsibility. If these parameters are not met, parity cannot be claimed under the principle of 'equal pay for equal work' (see - State of U.P. v. J.P. Chaurasia, and the Grih Kalyan Kendra Workers' Union case).

43. We shall now venture to summarize the conclusions recorded by this Court, with reference to a claim of pay parity, raised by temporary employees (differently designated as work-charge, daily-wage, casual, ad- hoc, contractual, and the like), in the following two paragraphs

44.4. In the Daily Rated Casual Labour Employed under P&T Department through Bhartiya Dak Tar Mazdoor Manch case this Court held, that under principle flowing from Article 38(2) of the Constitution, Government could not deny a temporary employee, at least the minimum wage being paid to an employee in the corresponding regular cadre, along with dearness allowance and additional dearness allowance, as well as, all the other benefits which were being extended to casual workers. It was also held, that the classification of workers (as unskilled, semi-skilled and skilled), doing the same work, into different categories, for payment of wages at different rates, was not tenable. It was also held, that such an act of an employer, would amount to exploitation. And further that, the same would be arbitrary and discriminatory, and therefore, violative of Articles 14 and 16 of the Constitution.

44.5. In State of Punjab v. Devinder Singh this Court held, that daily- wagers were entitled to be placed in the minimum of the pay-scale of regular employees, working against the same post. The above direction was issued after accepting, that the concerned employees, were doing the same work as regular incumbents holding the same post, by applying the principle of 'equal pay for equal work'.

46.3. Having noticed the conclusion drawn in State of Haryana v. Jasmer Singh, it would be relevant to emphasise, that in the cited judgments (noticed in paragraph 26 onwards, upto paragraph 41), the employees concerned, could not have been granted the benefit of the principle of 'equal pay for equal work' (in such of the cases, where it was so granted), because temporary employees (daily wage employees in the said

selection, by a specialized selection body/agency. We would therefore be obliged to follow the large number of cases where pay parity was granted, rather than, the instant singular judgment recording a divergent view.

54. The full bench of the High Court, while adjudicating upon the above controversy had concluded, that temporary employees were not entitled to the minimum of the regular pay-scale, merely for the reason, that the activities carried on by daily-wagers and regular employees were similar. The full bench however, made two exceptions. Temporary employees, who fell in either of the two exceptions, were held entitled to wages at the minimum of the pay-scale drawn by regular employees. The exceptions recorded by the full bench of the High Court in the impugned judgment are extracted hereunder: (*Avtar Singh case*, SCC OnLine P&H para 37).

“(1) 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.

(2) 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

worked for such long period of time, an equitable right is created in such category of persons. Their claim for regularization, if any, may have to be considered separately in terms of legally permissible scheme.

(3) In the event, a claim is made for 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.”

55. In view of all our above conclusions, the decision rendered by the full bench of the High Court in *Avtar Singh v. State of Punjab & Ors.* (CWP no. 14796 of 2003), dated 11.11.2011, is liable to be set aside, and the same is hereby set aside. The decision rendered by the division bench of the High Court in *State of Punjab & Ors. v. Rajinder Singh & Ors.* (LPA no. 337 of 2003, decided on 7.1.2009) is also liable to be set aside, and the same is also hereby set aside. We affirm the decision rendered in *State of Punjab & Ors. v. Rajinder Kumar* (LPA no. 1024 of 2009, decided on 30.8.2010), with the modification, that the concerned employees would be entitled to the minimum of the pay-scale, of the category to which they belong, but would not be entitled to allowances attached to the posts held by them.

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

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

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."

13. The principles laid down in the aforesaid judgment are squarely applicable to the case on hand. The impugned action of denial of benefit to the petitioners herein offends Articles 14 and 21 of



and the law laid down in the aforesaid judgment of the Hon'ble Apex Court.

14. For the aforesaid reasons, this Writ Petition is allowed, setting aside the letter bearing No.838/Courts.B/2020 dated 15.07.2020, as informed vide proceedings ROC.No.1717/E1/2009 of respondent No.2 dated 03.09.2020 and consequently, the respondents are directed to extend the benefit of enhancement of remuneration to the petitioners @ Rs.31,460/- with effect from 01.04.2019, i.e., minimum time scale attached to the post of Data Processing Officer. There shall be no order as to costs of the Writ Petition.

As a sequel, interlocutory applications, if any, pending in this Writ Petition, shall stand closed.

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**A.V.SESHA SAI, J**

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**G.RAMAKRISHNA PRASAD, J**

Date: 04.08.2022

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**THE HON'BLE SRI JUSTICE A.V.SESHA SAI  
AND  
THE HON'BLE SRI JUSTICE G.RAMAKRISHNA PRASAD**

WRIT PETITION No.3129 OF 2021

Date: 04.08.2022