

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**

**Claim Even Any Comparison with the Regular and Vs. State of Haryana and Another**

**Claim Even Any Comparison with the Regular and Vs. State of Haryana and Another**

**SooperKanoon Citation : [sooperkanoon.com/1066505](http://sooperkanoon.com/1066505)**

**Court : Punjab and Haryana**

**Decided On : Aug-26-2013**

**Appellant : Claim Even Any Comparison with the Regular and**

**Respondent : State of Haryana and Another**

**Judgement :**

CWP No.10399 o

1. IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH CWP No.10399 of 2002 Date of Decision: August 26, 2013.

Joginder Singh ....Petitioner Versus State of Haryana and another  
.....Respondents CORAM: HON'BLE Mr.JUSTICE PARAMJEET SINGH 1  
Whether reporters of the local papers may be allowed to see the judgment?.

2) To be referred to the Reporters or not?.

3) Whether the judgment should be reported in the Digest?.

Present: None for the petitioner.

Mr.Sukant Gupta, Addl.A.G.

Haryana.

\*\*\*\* PARAMJEET SINGH, J.

(Oral) Instant writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of writ in the nature of mandamus directing the respondents to pay the petitioner equal pay for equal work as the petitioner is performing the same duties as that of regular driver and possesses the same qualifications, but he is being paid consolidated CWP No.10399 o

2. salary of ` 1800/- per month which was paid at the time of appointment i.e.on 24.12.1998 and not enhanced to ` 2076.30/- per month on contractual basis for 89 days extended from time to time and for issuance of writ in the nature of certiorari setting aside the order of rejecting the claim of the petitioner for regularization of his services on the basis of policy decision and agreement dated 16.04.1994 and 17.12.1994 and 17.12.1995 reached between the government and the recognized Union of Haryana Roadways WorkeRs.I have heard learned State counsel and perused the record.

Vide order dated 13.02.2003, the writ petition was adjourned sine dine and ordered to be put up after the decision of SLP No.19754 of 2002 by the Hon'ble Supreme Court.

It would be appropriate to mention here that earlier, similarly situated persons i.e.Tilak Raj and others had filed writ petition claiming the similar benefits.

The said writ petition was allowed by the Division Bench of this Court and the State of Haryana filed Special Leave Petition No.19754 of 2002 which was converted into CA No.4570 of 2003.

The said CA No.4570 of 2003 has been allowed to some extent and the order of the Division Bench of this Court has been set aside.

The judgment passed in CA No.4570 of 2003 is reported as State of Haryana and another versus Tilak Raj and others (2003) 6 Supreme Court Cases 123.

The relevant portion of which reads as under: 11.

A scale of pay is attached to a definite post and in case of a daily-wager, he holds no posts.

The respondents workers cannot be held to hold any posts to CWP No.10399 o

3. claim even any comparison with the regular and permanent staff for any or all purposes including a claim for equal pay and allowances.

To claim a relief on the basis of equality, it is for the claimants to substantiate a clear-cut basis of equivalence and a resultant hostile discrimination before becoming eligible to claim rights on a par with the other group vis-a-fix an alleged discrimination.

No material was placed before the High Court as to the nature of the duties of either categories and it is not possible to hold that the principle of equal pay for equal work.

is an abstract one.

12. Equal pay for equal work.

is a concept which requires for its applicability complete and wholesale identity between a group of employees claiming identical pay scales and the other group of employees who have already earned such pay scales.

The problem about equal pay cannot always be translated into a mathematical formula.

13. Judged in the background of the aforesaid legal principles, the impugned judgment of the High Court is clearly indefensible and the same is set aside.

However, the appellant State has to ensure that minimum wages are prescribed for such workers and the same is paid to them.

The appeal is allowed to the extent indicated above.

There will be no order as to costs.

The case of the petitioner is squarely covered by the judgment rendered by the Hon'ble Supreme Court in Tilak Raj and others (supra).In view of above, the instant writ petition is dismissed.

However, as observed by the Hon'ble Supreme Court in Tilak Raj and CWP No.10399 o

4. others (supra).the State of Haryana has to ensure that minimum wages are prescribed, if already not done, for the petitioner and the same is paid to him.

No order as to costs.

(Paramjeet Singh) Judge August 26, 2013 parveen kumar

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**