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2026:AHC:216808

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Reserved : 09/10/2026

Delivered : 15/10/2026

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 22701 of 2005

Bharat Heavy Electricals Limited Thru Executive Director

.....Petitioner(s)

Versus

State of U.P. Thru Secy. Ministry of Labour and Ors.

.....Respondent(s)

Counsel for Petitioner(s)	: Abhishek Mishra, Ashish Mishra, Kandarp Narayan Mishra, Sandeep Saxena
Counsel for Respondent(s)	: C.S.C., Indra Mani Tripathi, K.m. Asthana, Monarch Tripathi

Court No. - 36

HON'BLE SAURABH SHYAM SHAMSHERY, J.

1. The issue involved in present case is a mixed issue of fact and law. The petitioner before this Court is Bharat Heavy Electricals Ltd., Jhansi Unit, Jhansi (for short “**BHEL**”) and respondents are BHEL Contract Workers Union (for short “**Workers Union**”) representing contractual appointees by the BHEL.

2. The Workers Union have approached Labour Commissioner, U.P. at Kanpur by way of filing an application under the provisions of Contract Labour (Regulation and Abolition) Act, 1970 r/w U.P. Contract Labour (Regulation and Abolition) Regulations, 1975 that they are working through different contractors from last many years and their work is of permanent nature. They are discharging different work as per

their respective contract and their work is equal to similarly situated regular employees of BHEL, therefore, respondents are entitled for equal pay on principle of equal pay for equal work.

3. The Labour Commissioner called parties to submit their respective replies as well as documentary evidence and finally vide an order dated 05.01.2005 held that contractual workers are entitled for equal pay on principle of equal pay for equal work. Aforesaid conclusion was based on documentary as well as oral material available on record such as : (i) *Orders issued by the officers of the establishment from time to time*, (ii) *Documents relating to work completion observation sheet*, (iii) *C-off (compensatory of notice letter)*, (iv) *Gate Passes of Contract workers*, (v) *Wage Slips*, (vi) *Log-book*, (vii) *Machine/crane operating permit order*, (viii) *Experience and Character certificates issued by the officers of the establishment to the Contract workers and certificate of award*, (ix) *Duty Roster*, (x) *Order issued by the officers of the BHEL Establishment, directing contract workers discharge the work relating to Assembling, Welding, Brazing, Electrical Maintenance, Draft man, Machinist etc.;* (xi) *Report and Enquiry report submitted by the Deputy Labour Commissioner, Jhansi Region, Jhansi.*

4. Relevant part of impugned order dated 05.01.2005 is quoted below :-

“मेरे द्वारा इस संबंध में उपलब्ध कराये गये साक्ष्यों का अवलोकन एवं परीक्षण किया गया। प्रस्तुत किये गये साक्ष्यों में मुख्यतः प्रतिष्ठान के अधिकारियों द्वारा समय-समय पर निर्गत आदेश, कार्य संपादन संबंधी आब्जर्वेशन शीट, सी-आपा सूचना-पत्र, गेट पास, वेतन पर्ची, लाग-बुक, मशीन/क्रेन आपरेटिंग संबंधी परमिट आदेश एवं प्रतिष्ठान के अधिकारियों द्वारा जारी अनुभव चरित्र प्रमाण पत्र तथा पुरस्कार स्वरूप प्राप्त होने वाले प्रमाण पत्र भी सम्मिलित है। याची श्रमिकगण द्वारा प्रस्तुत सूची में उल्लिखित लगभग अधिकांश संविदा श्रमिकों के संबंध में इस प्रकार के साक्ष्य प्रस्तुत किये गये हैं। मेरे द्वारा पत्रावली में उपलब्ध समस्त साक्ष्यों का अध्ययन किया गया जिससे स्पष्ट है कि प्रतिष्ठान के अन्दर संविदा श्रमिकों द्वारा किए जाने वाले कार्यों पर संविदाकार का कोई नियंत्रण नहीं होता है। संविदाकारों की भूमिका मात्र श्रमिक आपूर्तिकर्ता की होती है। संविदा श्रमिकों को कार्य सौंपने से लेकर उनके कार्यों का पर्यवेक्षण एवं कार्य सम्पन्न करने का प्रमाण पत्र का अवलोकन प्रतिष्ठान के अधिकारियों द्वारा किया जाता है। इस तथ्य में कोई संदेह नहीं है कि याची संविदा श्रमिक प्रतिष्ठान के अधिकारियों के पर्यवेक्षण एवं निर्देशन में कार्य करते हैं और कार्यस्थल पर उनके ऊपर प्रतिष्ठान के नियम कानून लागू होते हैं। कार्यस्थल पर उन संविदा

श्रमिकों के ऊपर संविदाकारों का कोई नियंत्रण नहीं होता है। प्रस्तुत किए गये साक्ष्य से यह भी स्पष्ट है कि प्रतिष्ठान के अधिकारियों द्वारा आदेश निर्गत करके उक्त संविदा श्रमिकों का आन्तरिक विभागीय स्थानांतरण भी किया जाता रहा है। इसी परिप्रेक्ष्य में प्रस्तुत साक्ष्यों के अवलोकन से यह स्पष्ट है कि याची संविदा श्रमिक अपने द्वारा सम्पादित किए जाने वाले कार्यों को सम्पन्न करने में कुशल हैं तथा यह स्वतंत्र रूप से भी उन कार्यों को भी सम्पन्न करते हैं जो नियमित कर्मचारियों द्वारा किया जाता है। प्रतिष्ठान के ड्यूटी रोस्टर से यह स्पष्ट है कि संविदा श्रमिकों से पम्प / मशीन / बास्ट इनकैप्सुलेशन प्लांट को आपरेट करने का कार्य स्वतंत्र रूप से करवाया जाता है। इस हेतु विभिन्न संविदा श्रमिकों को प्रतिष्ठान द्वारा निर्गत मशीन प्रचालन अनुज्ञा पत्रों का भी अवलोकन मेरे द्वारा किया गया। ड्यूटी रोस्टर से यह स्पष्ट होता है कि विभिन्न संविदाश्रमिकों को स्वतंत्र रूप से निर्धारित तिथि एवं शिफ्ट में प्लांट को आपरेट करने का आदेश दिया गया, जबकि उसी प्लांट को किसी अन्य तिथि व शिफ्ट पर आर्टीशंस ग्रेड-1 के नियमित कर्मचारी से चलवाये जाने का आदेश जारी किया गया है। मेरे द्वारा ऐसे साक्ष्यों का अवलोकन भी किया गया जिनके द्वारा संविदा श्रमिकों को एसेम्बलिंग, वेल्डिंग, ब्रेसिंग, इलेक्ट्रिकल मेन्टीनेन्स, ड्राफ्टमेन, मशीनिस्ट इत्यादि कार्यों को सम्पादित करने से सम्बन्धित आदेश जारी किए गये हैं। इसी क्रम में संविदा श्रमिकों द्वारा चालक के रूप में कार्यरत होने के प्रमाणस्वरूप प्रस्तुत किए गये डीजल/पेट्रोल की माँग हेतु रिवीजीशन सम्बन्धी साक्ष्य को भी देखा गया। उपर्युक्त साक्ष्यों के अवलोकन से सेवायोजक पक्ष का यह तर्क असत्य सिद्ध होता है कि संविदा श्रमिक नियमित कर्मचारियों के सहायक के तौर पर अथवा कार्यालय में अटेन्डेन्ट का कार्य करते हैं और प्रतिष्ठान द्वारा उनसे स्वतंत्र तौर पर कोई कार्य नहीं कराया जाता है। यह भी उल्लेखनीय है कि सेवायोजक पक्ष द्वारा अपने उक्त तर्क के समर्थन में कोई अभिलेखीय साक्ष्य प्रस्तुत नहीं किया गया है।

उपर्युक्त साक्ष्यों एवं अभिलेखों के अतिरिक्त मैंने प्रतिष्ठान में संविदा श्रम (विनियमन एवं उत्पादन) अधिनियम 1970 के अंतर्गत किए गये निरीक्षण पर उप श्रम आयुक्त, झाँसी क्षेत्र झाँसी द्वारा मुख्यालय को उपलब्ध करायी गयी आख्या एवं जॉच रिपोर्ट का भी अवलोकन किया। जॉच आख्या से यह स्पष्ट है कि अनुज्ञा प्रमाण पत्र प्राप्त किए बगैर संविदा श्रमिक नियोजित करने एवं निषिद्ध प्रक्रिया के कार्यों में संविदा श्रमिक नियोजित किए जाने विषयक उल्लंघनों के लिए किए गए निरीक्षण दिनांक 4.12.2002 में पाये गये उल्लंघनों के फलस्वरूप प्रतिष्ठान के विरुद्ध सक्षम न्यायालय में दिनांक 23.12.2002 को अभियोजन दायर किया गया है। इसके अतिरिक्त उपर्युक्त उल्लंघनों के फलस्वरूप प्रतिष्ठान के विरुद्ध कारखाना अधिनियम-1940 की धारा-62 एवं तत्सम्बन्धी नियमावली के नियम-70 के अंतर्गत भी विधिक कार्यवाही अपनायी गयी है।

इसी परिप्रेक्ष्य में मेरे द्वार 30 प्र० शासन द्वारा निर्गत अधिसूचना संख्या 2162 (एल०आई०)/36-2-127 (एस०एम०)-90 दिनांक 24.4.1990 जिसके द्वारा 30 प्र० में स्थित इंजीनियरिंग उद्योग की समस्त इकाईयों में अनुसूची में उल्लिखित कुल 18 प्रक्रियाओं / संकायों में ठेका श्रमिकों का नियोजन निषिद्ध किया गया है, को भी संज्ञान में लिया गया। उक्त अधिसूचना के निर्गत होने के फलस्वरूप कोई भी इंजीनियरिंग उद्योग सम्बन्धी प्रतिष्ठान निषिद्ध कार्यों में संविदा श्रमिक नियोजित नहीं कर सकता है और न ही इस हेतु उसे अधिनियम की धारा-8 के अंतर्गत पंजीयन प्रमाण पत्र ही निर्गत किया जा सकता है। इसी प्रकार कोई भी संविदाकार निषिद्ध कार्यों में संविदा श्रमिक नियोजन हेतु लाइसेंस भी नहीं प्राप्त कर सकता है। परन्तु प्रश्नगत प्रकरण में बी० एच० ई० एल० प्रतिष्ठान द्वारा बड़े पैमाने पर संविदा श्रमिकों को निषिद्ध कार्यों में नियोजित किए जाने के प्रमाण प्राप्त हुए हैं, जो नियमसंगत नहीं हैं।

प्रश्नगत विवाद से सम्बन्धित समस्त तथ्यों पर भलीभांति विचार करने के पश्चात् मैं इस निष्कर्ष पर पहुँचता हूँ कि मे० बी०एच०ई०एल०, झाँसी द्वारा अपने प्रतिष्ठान में विभिन्न ठेकेदारों के माध्यम से संविदा श्रमिकों का बड़े पैमाने पर ऐसे कार्यों में नियोजन किया जाता रहा है जिनमें अधिसूचना दिनांक 24.4.1990 द्वारा संविदा श्रमिकों के नियोजन को निषिद्ध किया गया है। यह तथ्य भी प्रमाणित हो चुका है कि संविदा श्रमिकों के कार्य सौंपने से लेकर कार्य का पर्यवेक्षण एवं उनका आंतरिक विभागीय स्थानान्तरण भी प्रतिष्ठान के अधिकारियों के आदेशों से ही किया जाता है और इन संविदा श्रमिकों के ऊपर प्रतिष्ठान के नियम एवं उप नियम लागू किये जाते रहे हैं। वर्तमान में प्रतिष्ठान द्वारा 441 संविदा श्रमिकों का नियोजन किया जा रहा है। यूनियन, 218 संविदा श्रमिकों का तुलनात्मक कार्य विवरण प्रस्तुत किया गया। इसके अतिरिक्त कई संविदा श्रमिक अभियन्त्रण उद्योग हेतु अधिसूचना दिनांक 24-04-90 द्वारा प्रतिबन्धित प्रक्रियाओं में नियोजित पाये गये। इस संबंध में महत्वपूर्ण बिन्दु जो समकक्ष/समान कार्य करने से संबंधित है का विनिश्चय भी उपलब्ध प्रमाणों एवं साक्ष्यों के आधार पर करते हुए मैं इस निष्कर्ष पर पहुँचा हूँ कि 265 संविदा श्रमिकों द्वारा वही कार्य किया जा रहा है जो प्रतिष्ठान के नियमित कर्मचारियों द्वारा किया जाता है। अनेक संविदा श्रमिकों के ऐसे प्रकरण भी पाये गये जहाँ वे स्वतंत्र रूप से अकेले ही सारे कार्य संचालित करते रहे हैं।

प्रस्तुत तथ्यों के आधार पर मेरे समक्ष ऐसा कोई कारण नहीं है कि जिसके आधार पर ठेकेदारों के माध्यम से नियोजित संविदा श्रमिकों को उनके समकक्ष प्रकार का समान कार्य करने वाले स्थायी व नियमित कर्मचारियों को दिये जा रहे वेतन से कम दर पर भुगतान किया जाये।

अतएव समस्त तथ्यों पर पूर्ण रूप से विचार करने के पश्चात् मैं आदेश पारित करता हूँ कि संलग्न सूची में उल्लिखित सभी 265 संविदा श्रमिक प्रतिष्ठान द्वारा सीधे नियोजित अकुशल नियमित कर्मचारियों के बराबर वेतन एवं अन्य भत्ते पाने के हकदार है। इस आदेश के फलस्वरूप संबंधित संविदा श्रमिक वेतन एवं अन्य भत्ते उसी दर पर एवं उसी समान प्राप्त करने के अधिकारी होंगे जिस दर पर बी० एच० ई० एल०, झाँसी में नियोजित स्थायी अकुशल श्रेणी के नियमित कर्मचारियों को वेतन एवं अन्य भत्ते दिये जा रहे हैं।

ये आदेश तत्कालिक प्रभाव से लागू होंगे। आदेश की प्रति संबंधित पक्षों एवं उप श्रमायुक्त, झाँसी को सूचनार्थ एवं प्रतिपालन हेतु प्रेषित की जायें।”

5. Aforesaid order was challenged by petitioner BHEL in present petition and following interim order was passed on 06.05.2005 :-

“Sri Shashi Nandan, Senior Advocate assisted by Sri K.M. Asthana has accepted notice on behalf of respondent-3. Learned Standing Counsel represents respondent nos. 1, 2 and 4. They pray for and are granted three weeks’ time to file counter affidavit. Rejoinder affidavit may be filed within one week thereafter.

List on 13th July, 2005.

Till the next date of listing recovery proceedings in terms of Labour Commissioner, U.P., Kanpur dated 5th January, 2005 (Annexure 7 to the writ petition) shall remained stayed so far as it pertains to the petitioner. However, this order will not affect the right of the

employees to enforce the recovery against the contractor in terms of order dated 5th January, 2005.”

6. This writ petition is pending for last more than 2 decades, still no counter affidavit was filed by respondent Workers Union, despite an opportunity was granted by above referred interim order.

7. There is a reference in the orders passed by this Court about an agreement dated 30.03.2006 purportedly entered into parties, however, it could not be a reason not to file any counter affidavit despite matter was highly contested.

8. Sri Ashish Mishra, learned counsel for petitioner BHEL has vehemently argued and has also referred extensively the written submission filed on behalf of BHEL. He has placed heavy reliance on a judgment passed by 3 Judges' Bench of Supreme Court in **State of Haryana and others vs. Charanjit Singh and others, (2006) 9 SCC 321** that doctrine of equal pay for equal work is not enforceable by the contract employees and their services would continue to remain governed to the terms of the contract. For reference, relevant part of it being paragraph 22 is quoted below :-

“22. One other fact which must be noted is that Civil Appeals Nos. 6648, 6647, 6572 and 6570 of 2002 do not deal with casual or daily-rated workers. These are cases of persons employed on contract. To such persons the principle of equal pay for equal work has no application. The Full Bench judgment dealt only with daily-rated and casual workers. Where a person is employed under a contract, it is the contract which will govern the terms and conditions of service. In State of Haryana v. Surinder Kumar [(1997) 3 SCC 633 : 1997 SCC (L&S) 844] persons employed on contract basis claimed equal pay as regular workers on the footing that their posts were interchangeable. It was held that these persons had no right to the regular posts until they are duly selected and appointed. It was held that they were not entitled to the same pay as regular employees by claiming that they are discharging the same duties. It was held that the very object of selection is to test the eligibility and then to make appointment in accordance with the rules. It was held that the respondents had not been recruited in accordance with the rules prescribed for recruitment.”

9. Learned counsel also submitted that even consideration by Labour Commissioner to arrive to a conclusion that contesting respondents are entitled to equal pay on principle of equal pay for equal work was also contrary to principles and parameters required for such consideration i.e. (i) being equivalency/similarity of work; (ii) educational qualification; (iii) experience; (iv) training; and (v) responsibilities. Consideration was not based on said parameters.

10. Learned counsel also placed reliance upon paragraph 19 of **State of Haryana and others vs. Charanjit Singh (supra)** and paragraph 8 of **G.P. Sangeetha and others, etc. vs. State of Kerala and others, 2026 INSC 1004** which is quoted below :-

“Charanjit Singh (supra)

19. Having considered the authorities and the submissions we are of the view that the authorities in the cases of Jasmer Singh [(1996) 11 SCC 77 : 1997 SCC (L&S) 210 : AIR 1997 SC 1788 : (1997) 2 LLJ 667] , Tilak Raj [(2003) 6 SCC 123 : 2003 SCC (L&S) 828] , Orissa University of Agriculture & Technology [(2003) 5 SCC 188 : 2003 SCC (L&S) 645 : (2003) 2 LLJ 968] and Tarun K. Roy [(2004) 1 SCC 347 : 2004 SCC (L&S) 225] lay down the correct law. Undoubtedly, the doctrine of “equal pay for equal work” is not an abstract doctrine and is capable of being enforced in a court of law. But equal pay must be for equal work of equal value. The principle of “equal pay for equal work” has no mechanical application in every case. Article 14 permits reasonable classification based on qualities or characteristics of persons recruited and grouped together, as against those who were left out. Of course, the qualities or characteristics must have a reasonable relation to the object sought to be achieved. In service matters, merit or experience can be a proper basis for classification for the purposes of pay in order to promote efficiency in administration. A higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues is also an acceptable reason for pay differentiation. The very fact that the person has not gone through the process of recruitment may itself, in certain cases, make a difference. If the educational qualifications are different, then also the doctrine may have no application. Even though persons may do the same work, their quality of work may differ. Where persons are selected by a Selection Committee on the basis of merit with due regard to seniority a higher pay scale granted to such persons who are evaluated by the competent authority cannot be challenged. A

classification based on difference in educational qualifications justifies a difference in pay scales. A mere nomenclature designating a person as say a carpenter or a craftsman is not enough to come to the conclusion that he is doing the same work as another carpenter or craftsman in regular service. The quality of work which is produced may be different and even the nature of work assigned may be different. It is not just a comparison of physical activity. The application of the principle of "equal pay for equal work" requires consideration of various dimensions of a given job. The accuracy required and the dexterity that the job may entail may differ from job to job. It cannot be judged by the mere volume of work. There may be qualitative difference as regards reliability and responsibility. Functions may be the same but the responsibilities make a difference. Thus normally the applicability of this principle must be left to be evaluated and determined by an expert body. These are not matters where a writ court can lightly interfere. Normally a party claiming equal pay for equal work should be required to raise a dispute in this regard. In any event, the party who claims equal pay for equal work has to make necessary averments and prove that all things are equal. Thus, before any direction can be issued by a court, the court must first see that there are necessary averments and there is a proof. If the High Court is, on basis of material placed before it, convinced that there was equal work of equal quality and all other relevant factors are fulfilled it may direct payment of equal pay from the date of the filing of the respective writ petition. In all these cases, we find that the High Court has blindly proceeded on the basis that the doctrine of equal pay for equal work applies without examining any relevant factors."

"G.P. Sangeetha (supra)

8. In the last century, following the decision in Randhir Singh v. Union of India, this Court treated equal pay for equal work as an expansive anti-exploitation principle under Articles 14 and 39(d), where the mere sameness of designation - teacher with teacher, accountant with accountant, clerk with clerk, driver with driver, etc. - was sufficient to claim parity. In this century, however, beginning with the decision in State Bank of India v. M.R. Ganesh Babu and ending with State of Bihar v. Bihar Secondary Teachers Struggle Committee, the doctrine has been recast as a strict test based on service rules. Decisions are legion that equal pay cannot be claimed by merely showing identical work; the claimant-employee must establish complete parity in the source of recruitment, educational qualifications and experience, mode of appointment through a constitutional process, and nature of responsibilities and accountability. Mere functional similarity of work has been held to be no longer enough."

11. Learned counsel has also referred paragraph 14 of written submission about an earlier order passed by this Court whereby an issue of regularization of contesting respondents was declined.

12. Learned counsel for petitioner has also submitted that material brought on record before Labour Commissioner was not sufficient to come to a conclusion that contractual employees were entitled for equal pay on principle of equal pay for equal work. Their status remained purely contractual in nature and they are not entitled for any benefit of principle of equal pay for equal work.

13. Per contra, Sri K.M. Asthana, learned counsel for respondents Workers Union has also argued at length that various documents were placed on record before Labour Commissioner. Details of same have already been referred earlier paragraphs and they were sufficient to show that contractual workers of said Union were discharging respective duties according to their nature of work assigned similar to work of similarly situated regular employees.

14. Learned counsel has also referred part of impugned order in order to submit that most relevant document such as log book, duty roster and comparative chart were carefully perused by Labour Commissioner before reaching to a conclusion that contesting respondents were entitled for equal pay.

15. Learned counsel has also submitted that findings returned by Labour Commissioner were based on material available and were passed after careful consideration of documents and referred from impugned order that “it is clear from duty roster discharging working in an independent manner” and that “I have perused such findings”.

16. Learned counsel for respondents has also referred a judgment passed by Constitution Bench of Supreme Court in **Syed Yakoob vs. KS Radha Krishnan and others**, AIR 1964 SC 477 wherein scope of writ of

certiorari was discussed and he referred paragraph 7 of it and for reference same is quoted below :-

“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Art. 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals: these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Art. 226 to issue a writ of certiorari can be legitimately exercised (vide Hari Vishnu Kamath v. Ahmad Ishaque, 1955-1 SCR 1104: ((S) AIR 1955 SC 233): Nagendra Nath v. Commr. of Hills Division, 1958 SCR 1240: (AIR 1958 SC 398) and Kaushalya Devi v. Bachittar Singh, AIR 1960 SC 1168.”

17. Learned counsel has also placed heavy reliance upon another judgment passed by Supreme Court in **Indian Overseas Bank vs. IOB Staff Canteen Workers**, 2000 (4) SCC 245 and for reference, paragraph 17 of it is quoted below :-

“17. The learned Single Judge seems to have undertaken an exercise, impermissible for him in exercising writ jurisdiction, by liberally reappreciating the evidence and drawing conclusions of his own on pure questions of fact, unmindful, though aware fully, that he is not exercising any appellate jurisdiction over the awards passed by a tribunal, presided over by a judicial officer. The findings of fact recorded by a fact-finding authority duly constituted for the purpose and which ordinarily should be considered to have become final, cannot be disturbed for the mere reason of having been based on materials or evidence not sufficient or credible in the opinion of the writ court to warrant those findings, at any rate, as long as they are based upon some material which are relevant for the purpose or even on the ground that there is yet another view which can reasonably and possibly be taken. The Division Bench was not only justified but well merited in its criticism of the order of the learned Single Judge and in ordering restoration of the award of the Tribunal. On being taken through the findings of the Industrial Tribunal as well as the order of the learned Single Judge and the judgment of the Division Bench, we are of the view that the Industrial Tribunal had overwhelming materials which constituted ample and sufficient basis for recording its findings, as it did, and the manner of consideration undertaken, the objectivity of approach adopted and reasonableness of findings recorded seem to be unexceptionable. The only course, therefore, open to the writ Judge was to find out the satisfaction or otherwise of the relevant criteria laid down by this Court, before sustaining the claim of the canteen workmen, on the facts found and recorded by the fact-finding authority and not embark upon an exercise of reassessing the evidence and arriving at findings of one's own, altogether giving a complete go-by even to the facts specifically found by the Tribunal below.”

18. Learned counsel also submitted that 176 contract workers are continuously working from 18-20 years at relevant time and rest workers are continuing working from last 8 years. Number of contractors were changed but the contract workers remained same. A large number of contract employees having qualification of ITI diploma holder and they have gained apprenticeship training at BHEL Jhansi and they have requisite technical education for different trade i.e. fitter, machinist,

welding, grinding, crane operator, electrician, assembling, draftsman, clerk/steno, computer operator, coil winding, fabrication, gardener, etc.

19. An application for impleadment was filed by Samvida Shramik Sangh, BHEL, Jhansi through its Secretary in month of January, 2026 that benefit of impugned order shall also be granted to them. Court heard them as intervener, though no specific argument was raised except to adopt arguments raised by learned counsel for respondent as referred above.

20. During argument, it was found that all material and documents considered by Labour Commissioner were not brought on record in entirety therefore during argument, learned counsel for respondents workmen has shown the documents and same were filed during course of day by way of a supplementary affidavit, which is taken on record.

21. I have considered above submissions and perused the records.

22. Few facts which are not disputed amongst parties are that workers of contesting union are contractual workers and they are discharging different duties as per their agreement, however, said agreement is not on record. They are working for many years, though contractor has changed but their engagement remained continued. Their prayer for regularization was rejected by this Court in **Writ C No. 6234/2010 (BHEL Contract Workers Union thru its Gen. Secy vs. BHEL thru Chairman and others)** which was decided on 19.08.2025 and for reference relevant part thereof is quoted below :-

“13. Heard counsel for parties and perused the record.

14. Effect of an earlier Adjudication by Labour Commissioner :-

15. The Labour Commissioner has adjudicated only an issue that contract employees of the BHEL, Jhansi were entitled to same pay and allowances as given to regular appointees of the BHEL, Jhansi. Issue of regularisation before any new recruitment was neither an issue nor decided. Therefore any findings of adjudication would have no bearing on present case. Though it was the admitted case of

petitioners therein that they were appointed through different Contractors.

16. Whether a issue that contract with Contractors by the BHEL is sham could be decided by High Court:

17. It is not much under dispute that in order to decided the said issue, evidence is required to be produced. Terms of contract and manner of working is to tested by statements and documents, therefore, to decide it writ jurisdiction is not the correct forum. The appropriate authority is the Industrial Tribunal. The Steel Authority of India (supra) has also held the same in its para 126 and for reference the same is again referred herein after :-

“126. We have used the expression “industrial adjudicator” by design as determination of the questions aforementioned requires enquiry into disputed questions of facts which cannot conveniently be made by High Courts in exercise of jurisdiction under Article 226 of the Constitution. Therefore, in such cases the appropriate authority to go into those issues will be the Industrial Tribunal/Court whose determination will be amenable to judicial review.”

18. In view of above referred discussion, the issue that whether the contract is sham or not cannot be adjudicated by this Court under Writ Jurisdiction.

19. Effect of BHEL vs Mahendra Prasad Jakhmola (supra) :-

20. In similar circumstances a claim of contract workers of BHEL, Haridwar for regularisation was rejected by Supreme Court after taking note of SAIL (supra) as well CLRA also. Expression “control and supervision” was also considered and adjudication by Labour Court and a judgment passed by the High Court for regularisation were set aside by returning a specific finding that- “There is nothing on facts to show that the contract labour that is engaged, even de hors a prohibition notification, is in the facts of this case “sham”.

21. On basis of above discussion there is no ground to grant relief as prayed, therefore present writ petition is dismissed and interim order is accordingly, vacated.”

23. There is not much disputes on legal proposition amongst counsel for parties that principle of equal pay for equal work would apply on basis of specific consideration on many parameters and for reference, paragraph 42 of **State of Punjab vs. Jagjeet Singh and others, (2017) 1 SCC 148** is quoted below :-

“The consideration

42. *All the judgments noticed in paras 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:*

42.1. 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 [Orissa University of Agriculture & Technology v. Manoj K. Mohanty, (2003) 5 SCC 188 : 2003 SCC (L&S) 645] , UT Chandigarh, Admn. v. Manju Mathur [U.T. Chandigarh, Admn. v. Manju Mathur, (2011) 2 SCC 452 : (2011) 1 SCC (L&S) 348] , SAIL case [SAIL v. Dibyendu Bhattacharya, (2011) 11 SCC 122 : (2011) 2 SCC (L&S) 192] and National Aluminium Co. Ltd. case [National Aluminium Co. Ltd. v. Ananta Kishore Rout, (2014) 6 SCC 756 : (2014) 2 SCC (L&S) 353]).

42.2. The mere fact that the subject post occupied by the claimant is in a “different department” vis-à-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 the Government (see Randhir Singh case [Randhir Singh v. Union of India, (1982) 1 SCC 618 : 1982 SCC (L&S) 119] and D.S. Nakara case [D.S. Nakara v. Union of India, (1983) 1 SCC 305 : 1983 SCC (L&S) 145]).

42.3. The principle of “equal pay for equal work”, applies to cases of unequal scales of pay, based on no classification or irrational classification (see *Randhir Singh case* [*Randhir Singh v. Union of India*, (1982) 1 SCC 618 : 1982 SCC (L&S) 119]). For equal pay, the employees concerned with whom equation is sought, should be performing work, which besides being functionally equal, should be of the same quality and sensitivity (see *Federation of All India Customs and Central Excise Stenographers case* [*Federation of All India Customs and Central Excise Stenographers v. Union of India*, (1988) 3 SCC 91 : 1988 SCC (L&S) 673] , *Mewa Ram Kanojia case* [*Mewa Ram Kanojia v. All India Institute of Medical Sciences*, (1989) 2 SCC 235 : 1989 SCC (L&S) 329] , *Grih Kalyan Kendra Workers' Union case* [*Grih Kalyan Kendra Workers' Union v. Union of India*, (1991) 1 SCC 619 : 1991 SCC (L&S) 621] and *S.C. Chandra case* [*S.C. Chandra v. State of Jharkhand*, (2007) 8 SCC 279 : (2007) 2 SCC (L&S) 897 : 2 SCEC 943]).

42.4. Persons holding the same rank/designation (in different departments), but having dissimilar powers, duties and responsibilities, can be placed in different scales of pay and cannot claim the benefit of the principle of “equal pay for equal work” (see *Randhir Singh case* [*Randhir Singh v. Union of India*, (1982) 1 SCC 618 : 1982 SCC (L&S) 119] , *State of Haryana v. Haryana Civil Secretariat Personal Staff Assn.* [*State of Haryana v. Haryana Civil Secretariat Personal Staff Assn.*, (2002) 6 SCC 72 : 2002 SCC (L&S) 822] and *Hukum Chand Gupta case* [*Hukum Chand Gupta v. ICAR*, (2012) 12 SCC 666 : (2013) 3 SCC (L&S) 493]). Therefore, the principle would not be automatically invoked merely because the subject and reference posts have the same nomenclature.

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 *Federation of All India Customs and Central Excise Stenographers case* [*Federation of All India Customs and Central Excise Stenographers v. Union of India*, (1988) 3 SCC 91 : 1988 SCC (L&S) 673] and *SBI case* [*SBI v. M.R. Ganesh Babu*, (2002) 4 SCC 556 : 2002 SCC (L&S) 568]). 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 [State of U.P. v. J.P. Chaurasia, (1989) 1 SCC 121 : 1989 SCC (L&S) 71] and Grih Kalyan Kendra Workers' Union case [Grih Kalyan Kendra Workers' Union v. Union of India, (1991) 1 SCC 619 : 1991 SCC (L&S) 621]).

42.6. *For placement in a regular pay scale, the claimant has to be a regular appointee. The claimant should have been selected on the basis of a regular process of recruitment. An employee appointed on a temporary basis cannot claim to be placed in the regular pay scale (see Orissa University of Agriculture & Technology case [Orissa University of Agriculture & Technology v. Manoj K. Mohanty, (2003) 5 SCC 188 : 2003 SCC (L&S) 645]).*

42.7. *Persons performing the same or similar functions, duties and responsibilities, can also be placed in different pay scales. Such as — “selection grade”, in the same post. But this difference must emerge out of a legitimate foundation, such as — merit, or seniority, or some other relevant criteria (see State of U.P. v. J.P. Chaurasia [State of U.P. v. J.P. Chaurasia, (1989) 1 SCC 121 : 1989 SCC (L&S) 71]).*

42.8. *If the qualifications for recruitment to the subject post vis-à-vis the reference post are different, it may be difficult to conclude that the duties and responsibilities of the posts are qualitatively similar or comparable (see Mewa Ram Kanojia case [Mewa Ram Kanojia v. All India Institute of Medical Sciences, (1989) 2 SCC 235 : 1989 SCC (L&S) 329] and State of W.B. v. Tarun K. Roy [State of W.B. v. Tarun K. Roy, (2004) 1 SCC 347 : 2004 SCC (L&S) 225]). In such a case the principle of “equal pay for equal work” cannot be invoked.*

42.9. *The reference post with which parity is claimed under the principle of “equal pay for equal work” has to be at the same hierarchy in the service as the subject post. Pay scales of posts may be different, if the hierarchy of the posts in question, and their channels of promotion, are different. Even if the duties and responsibilities are same, parity would not be permissible, as against a superior post, such as a promotional post (see Union of India v. Pradip Kumar Dey [Union of India v. Pradip Kumar Dey, (2000) 8 SCC 580 : 2001 SCC (L&S) 56] and Hukum Chand Gupta case [Hukum Chand Gupta v. ICAR, (2012) 12 SCC 666 : (2013) 3 SCC (L&S) 493]).*

42.10. *A comparison between the subject post and the reference post under the principle of “equal pay for equal work” cannot be made where the subject post and the reference post are in different establishments, having a different management. Or even, where the establishments are in different geographical locations, though owned by the same master (see Harbans Lal case [Harbans Lal v. State of H.P., (1989) 4 SCC 459 : 1990 SCC (L&S) 71]). Persons engaged*

differently, and being paid out of different funds, would not be entitled to pay parity (see Official Liquidator v. Dayanand [Official Liquidator v. Dayanand, (2008) 10 SCC 1 : (2009) 1 SCC (L&S) 943]).

42.11. Different pay scales, in certain eventualities, would be permissible even for posts clubbed together at the same hierarchy in the cadre. As for instance, if the duties and responsibilities of one of the posts are more onerous, or are exposed to higher nature of operational work/risk, the principle of “equal pay for equal work” would not be applicable. And also when the reference post includes the responsibility to take crucial decisions, and that is not so for the subject post (see SBI case [SBI v. M.R. Ganesh Babu, (2002) 4 SCC 556 : 2002 SCC (L&S) 568]).

42.12. The priority given to different types of posts under the prevailing policies of the Government can also be a relevant factor for placing different posts under different pay scales. Herein also, the principle of “equal pay for equal work” would not be applicable (see State of Haryana v. Haryana Civil Secretariat Personal Staff Assn. [State of Haryana v. Haryana Civil Secretariat Personal Staff Assn., (2002) 6 SCC 72 : 2002 SCC (L&S) 822]).

42.13. The parity in pay, under the principle of “equal pay for equal work”, cannot be claimed merely on the ground that at an earlier point of time the subject post and the reference post, were placed in the same pay scale. The principle of “equal pay for equal work” is applicable only when it is shown, that the incumbents of the subject post and the reference post, discharge similar duties and responsibilities (see State of W.B. v. Minimum Wages Inspectors Assn. [State of W.B. v. W.B. Minimum Wages Inspectors Assn., (2010) 5 SCC 225 : (2010) 2 SCC (L&S) 1]).

42.14. For parity in pay scales under the principle of “equal pay for equal work”, equation in the nature of duties is of paramount importance. If the principal nature of duties of one post is teaching, whereas that of the other is non-teaching, the principle would not be applicable. If the dominant nature of duties of one post is of control and management, whereas the subject post has no such duties, the principle would not be applicable. Likewise, if the central nature of duties of one post is of quality control, whereas the subject post has minimal duties of quality control, the principle would not be applicable (see U.T. Chandigarh, Admn. v. Manju Mathur [U.T. Chandigarh, Admn. v. Manju Mathur, (2011) 2 SCC 452 : (2011) 1 SCC (L&S) 348]).

42.15. There can be a valid classification in the matter of pay scales between employees even holding posts with the same nomenclature

i.e. between those discharging duties at the headquarters, and others working at the institutional/sub-office level (see Hukum Chand Gupta case [Hukum Chand Gupta v. ICAR, (2012) 12 SCC 666 : (2013) 3 SCC (L&S) 493]), when the duties are qualitatively dissimilar.

42.16. The principle of “equal pay for equal work” would not be applicable, where a differential higher pay scale is extended to persons discharging the same duties and holding the same designation, with the objective of ameliorating stagnation, or on account of lack of promotional avenues (see Hukum Chand Gupta case [Hukum Chand Gupta v. ICAR, (2012) 12 SCC 666 : (2013) 3 SCC (L&S) 493]).

42.17. Where there is no comparison between one set of employees of one organisation, and another set of employees of a different organisation, there can be no question of equation of pay scales under the principle of “equal pay for equal work”, even if two organisations have a common employer. Likewise, if the management and control of two organisations is with different entities which are independent of one another, the principle of “equal pay for equal work” would not apply (see S.C. Chandra case [S.C. Chandra v. State of Jharkhand, (2007) 8 SCC 279 : (2007) 2 SCC (L&S) 897 : 2 SCEC 943] and National Aluminium Co. Ltd. case [National Aluminium Co. Ltd. v. Ananta Kishore Rout, (2014) 6 SCC 756 : (2014) 2 SCC (L&S) 353]).”

24. The Supreme Court further considered whether principle would be applicable to contractual workers or not and relevant part for this purpose is quoted below :-

“44.9. In U.P. Land Development Corpn. case [U.P. Land Development Corpn. v. Mohd. Khursheed Anwar, (2010) 7 SCC 739 : (2010) 2 SCC (L&S) 513] this Court noticed that the respondents were employed on contract basis on a consolidated salary. But, because they were actually appointed to perform the work of the post of Assistant Engineer, this Court directed the employer to pay the respondents wages in the minimum of the pay scales ascribed for the post of Assistant Engineer.”

25. On basis of aforesaid position of law, the conclusion would be that if workmen employed on contractual basis have able to show that they were actually to performing work as preferred by regularly appointee of concerned post, they may claim equal pay for equal work. It may be a case whether it would be a minimum of payscale of similarly situated post, however, onus of proof of parity in duty and responsibility of

subject post with the reference based under principle of equal pay for equal work would lie on a person who claims it i.e. workmen in present case. They have to prove on basis of oral and documentary evidence that they were performing work not only being functionally equal but should be of same quality and sensitivity. It would not automatically invoke merely subject of post as same nomenclature, therefore, impugned order should refer whether requirement of law was factually fulfilled before coming to a conclusion that it was a case of equal pay for equal work.

26. In above background, I have carefully perused the impugned order which is already quoted above. The Labour Commissioner has observed that he has perused the material on record, however, without making any specific consideration that whether claim of equal pay for equal work was proved at the anvil of above referred provisions of law and parameters, in a very cursory manner held that duty roster was sufficient to show that they were working independently, they were working as the work assigned to regular employees, they were assigned work of welding, electrical, maintenance, etc. and has placed reliance on a comparative chart of work, however, Court finds that the chart annexed along with this writ petition and supplementary affidavit filed are not actual comparative chart rather it was a list of temporary workers of BHEL which only show name of workmen, designation, department, date of joining, nature of work, name of contractor as well as name of regular employee. It does not show how work was similar or same. A leaf of said document is scanned and pasted :-

LIST OF TEMPORARY WORKERS OF BHEL, JHANSI									
Sl. No.	Name (S/Shri)	Father's Name (S/Shri)	Designation	Department	Date of Joining	Nature of Work	Name of Contractor	Name of Regular Employee	Staff No.
136	Sandeep Pandey	Ram Narayan	U.S.W	Loco Production	Jan 90	Helper	M/S SKC		
137	Suresh Mishra	H.P. Mishra	U.S.W	Loco Production	March 93	Crane Operator	M/S SKC		
138	Ujjain Kumar	Malkhan	U.S.W	Loco Production	June 90	Crane Operator	M/S SKC		
139	V. K. Singh	Rabhu Singh	Artisan	Loco Production	Dec 94	Assembly Work	M/S SKC	Pradeep Srivastava	2523462
140	Har Govind	Pragathi	U.S.W	Locomotive Planning	06.11.91	Peon	M/S SKC	Sukku	2513735
141	Sujan Khan	Alabaz	SSW	Locomotive Planning	02.03.92	Personal Sect	M/S SKC		
142	Veeresh Dubey	Ram Krishan	SSW	Locomotive Planning	01.12.98	Personal Sect	M/S SKC		
143	Simohan Tiwari	Hanram Tiwari	Steno/Typist	Purchase	1199	Stenographer	M/S SKC		
144	Girishankar Shukla	Vindeshwar Prasad	S.S.W	Purchase	28.12.63	Daftari	M/S SKC	Ram Babu	2502941
145	Kajjan Singh Tomar	Atarsingh Tomar	S.S.W	Purchase	12.10.94	Stenographer	M/S SKC	Prabhu Dass	2504595
146	Ku. Anita Singh	Raghu Raj Singh	U.S.W	Purchase	1979	Peon	M/S SKC	K.A. Sukhakaran	2501783
147	Manoharlal	Nathuram	U.S.W	Purchase	1979	Peon	M/S SKC	Lakhan Lal	2510380
148	Pragati	Lagan	S.S.W	Purchase	14.02.94	Steno	M/S SKC	K.A. Sukhakaran	2501783
149	Praveen Arora	Narayandas	S.W	Purchase	05.12.69	Clerical	M/S SKC	S.C. Sharma	2513579
150	Pritam Singh	Charan Singh	S.W	Purchase	1990	Computer Oper	M/S SKC	V.S. Yadav	2524155
151	Santa Srivastava	W.D. S.K. Srivastava	SW	Purchase	12.01.00	Typist	M/S SKC		
152	Sund Kumar Yadav	Ratiram Yadav	S.S.W	Purchase	1983	Attendant	M/S SKC	Kishori Lal	2524525
153	Asha Ram	Babul Raiwar	U.S.W	Store	1982	Helper	M/S SKC	Kishori Lal	2524525
154	Badal Khan	Saku Khan	S.S.W	Store	1981	Crane Operator	M/S SKC	Ram lqbal	25058357
155	Bhagirath Pal	Hamir Singh	S.W	Store	1993	Store Keeper	M/S SKC		
156	Bhawani Singh Yadav	Bir Singh	U.S.W	Store	1983	Helper	M/S SKC	Desh Raj	25244739
157	Bishubhan	Kushantlal	U.S.W	Store	1982	Helper	M/S SKC	Kishori Lal	2524525
158	Chaitali	Gyocse	S.S.W	Store	1983	Lifter Operator	M/S SKC	Desh Raj	25244739
159	Danabhadur	Maharaj Deen	SSW	Store	1983	Tractor Driver	M/S SKC		
160	Dashrath Singh	Ram Kishan	U.S.W	Store	01.04.67	Helper	M/S SKC	Babu Lal	25225977
161	Gokul Prasad Yadav	Kandhail Yadav	U.S.W	Store	1981	Helper	M/S SKC	Raghubir Singh	25244659
162	Hari Ram	Chhotelal	S.S.W	Store	1995	Helper	M/S SKC	Kishori Lal	2524525
163	Hariram Kushwaha	Harcharan	U.S.W	Store	1983	Carpenter	M/S SKC	Lakhan Lal	25245866
164	Hergovind	Kailu	S.S.W	Store	1983	Helper	M/S SKC	J.P. Kushwaha	25227139
165	Iqbal	Ali Baksha	S.S.W	Store	10.02.91	Helper	M/S SKC	Raghubir Singh	25244659
166	Jagdish P. Kaithwas	Ramdin	U.S.W	Store	1983	Helper	M/S SKC	Kishori Lal	2524525
167	Kalu Yadav	Varadhan Singh	U.S.W	Store	02.02.93	Peon	M/S SKC	R.N. Chaubey	25051188
168	Kesav Singh	Mangal Singh	USW	Store	1992	Helper	M/S SKC	Desh Raj	25244739
169	Khatav Singh	Kandhail	U.S.W	Store	1982	Helper	M/S SKC	Desh Raj	25244739
170	Kushantlal	Haiku Razak	S.S.W	Store	1982	Helper	M/S SKC	Desh Raj	25244739
171	Lalaram Kushwaha	Mullu	S.S.W	Store	April 83	Helper	M/S SKC	Kishori Lal	2524525
172	Laxman P. Prajapati	Mohan Lal	S.S.W	Store	11.02.92	Store Keeper	M/S SKC	Bhawani Deen	25117925
173	Mahendra Singh	U. Vir Pal Singh	P.S	Store	14.12.67	Secretarial Work	M/S SKC		
174	Mangli Prasad	Buddha	S.S.W	Store	Feb 82	Helper	M/S SKC	Babu Lal	2522597
175	Mevalal	U. Pyarelal	S.S.W	Store	18.09.81	Helper	M/S SKC	Dav Lal	25212619
176	Mohanlal Yadav	Raghubir Singh	S.S.W	Store	Jan 82	Gas Plant Oper	M/S SKC		
177	Nand Kishore	Bhawan	U.S.W	Store	1982	Helper	M/S SKC	Kishori Lal	2524525
178	Nardeshtore	Jhannanlal	U.S.W	Store	23.10.94	Helper	M/S SKC	Kishori Lal	2524525
179	Narayan	Hirafal	U.S.W	Store	1983	Helper	M/S SKC	Raghuwar Singh	25244659
180	Pragati	Channa Yadvasi	U.S.W	Store	1980	Helper	M/S SKC		

27. From experience certificates, it only shows that contesting respondents have worked as daily rated worker and that they were related to office and operating xerox machine or similar nature of work. Said document would not be sufficient so far as essential parameters required to be considered for principle of equal pay for equal work.

28. There is another document which is supposed to a duty chart which only shows that they have worked in a particular shift. There are certain log books which only show how to run a generator, etc. Some documents show about working in a particular shift. There were some attendance sheets or gate passes. There is nothing on record what actual work was done by contractual appointees and what actual work was done by the regular appointees. Even details of log book show about work undertaken but only such document would not be able to prove equal work without further discussion. Said document would not be a sufficient document that all parameters were fulfilled. A scanned copy of one of the duty charts is pasted below :-

46	JC L-1	30	Man Phool	Bay-8	S.S.W	Helping the regular employ in gas filling and oil pressure testing. He is not operating crane.	2515660	Habib Khan	Crane operation, planning of material displacement ensuring proper usage of hooks/slinge according to load. Ensuring jerkless movement of delicate assembly/sub-assemblies.
47	JC L-1	90	Khachu	Civil Factory	U.S.W	Helping in maintenance of factory buildings.	2513897	Parsuram	Regular employee doesn't exits with this name and staff number
48	JC L-1	88	Hari	Civil Factory	U.S.W	Helping in maintenance of factory buildings.	2515644	R.K.Sharm a	Assigning work to contractors, inspecting and making reports, liasoning with shop floor manager.
49	JC L-1	91	Meghraj	Civil Factory	U.S.W	Helping in maintenance of factory buildings.	2515644	R.K.Sharm a	Assigning work to contractors, inspecting and making reports, liasoning with shop floor manager.
50	JC L-1	240	Chandoo Lal	Bay-8	S.S.W	Shifting of material from various work centre by hand trolley. He is not doing assembly work.	2515644	R.K.Sharm a	Preparation of documents for final shipment of instrument transformer. He is Artisan Grade I and undergone training on ISO.

29. In aforesaid circumstances, Court finds that exercise which was warranted by the Labour Commissioner to apply principle of *equal pay for equal work* was not undertaken. There is no consideration in

impugned order and by only saying that “I have perused the documents and of the view” would not be sufficient since there must be specific consideration and reasons to come to a conclusion that it was a case of *equal pay for equal work*.

30. The Supreme Court in Jagjit Singh (supra) has referred various parameters, however, Court finds that none of them is complied with in present case. The Labour Commissioner has failed to mention any reason how on basis of log book, duty chart, he has come to a conclusion that principle of equal pay for equal work applies rather Court finds that the impugned order has not made required consideration.

31. So far as scope of certiorari is concerned, Court has come to a conclusion that it is a case where no reason was assigned in the impugned order so far as whether parameters required by the law were considered and how a decision was arrived since reasons are absolutely missing. Therefore, even in **Syed Yakooob (supra)**, the Supreme Court has held that if a finding is based on basis of no evidence, then it would be regarded as an error of law which can be corrected by writ of certiorari, therefore, also, a case of certiorari is made out.

32. In aforesaid circumstances, impugned order in present form does not legally survive, hence, set aside and in the interest of justice, since still a consideration can be made on basis of above referred position of law and on basis of material, matter is remitted back for fresh consideration. A fresh order shall be passed within a period of six months from the date a certified copy of this judgment is placed.

33. Writ petition stands **disposed of** with above observations and directions.

(SAURABH SHYAM SHAMSHERY, J.)

October 15, 2026

<Nirmal>