

31.3.2009 Present: Mr. Onkar Jairath, Advocate, for the petitioner.

Mr. R. K. Sharma, Sr. Addl. A.G. with Mr. Vivek Thakur, Addl. A.G. and Mr. Anil Jaswal, Deputy A.G. for the respondents.

On 16.9.1988 the applicant was appointed as Tracer Draftsman on daily wage basis. Since then he has been continuously working and performing his duties diligently and to the best of the satisfaction of the respondents. It is his grievance that even though he is discharging the same and similar duties, infact identical, of regularly appointed Tracer Draftsman, but however, he has been deprived of the emoluments only for the reason that his appointment as Tracer Draftsman is not on regular basis.

As to whether a daily wage employee can be deprived of the emoluments paid to his counterpart who were employed on regular basis or not stands settled by a Division Bench of this Court in *Civil Writ Petition No. 641/1990 titled Om Parkash versus State of H.P. and others*, vide judgment dated 26.12.1990. This Court while dealing with the case of Draftsman (Civil) employed by the respondents themselves held that the petitioners would be entitled to the payment of rates equivalent to the minimum pay scale of regularly employed Draftsman (Civil) without any increment but alongwith all allowances as are paid to regular and permanent employees.

Respondents are opposing the implementation of the

aforesaid decision only for the reason that the "petitioner is not performing the same and similar work qualitatively and quantitatively as are being done by the regularly deployed Draftsman".

Importantly in the petition itself the petitioner has stated that the petitioner is performing same and similar duty as is performed by regularly employed Tracer Draftsman. This fact has not been specifically denied by the respondents nor has the respondent placed any document to show as to in what manner the work carried out by Tracer Draftsman is qualitatively and quantitatively different from the regular deployed Draftsman.

For the aforesaid reasons in my view the petitioner's case is squarely covered by the decision rendered by this Court in *Om Parkash case (supra)*. The present petition is allowed. Respondents are directed to pay the petitioner rates equivalent to the minimum pay scale of regularly employed incumbents in the corresponding cadre without any increments but with allowances. The claimant shall be entitled to the same from the date of the filing of the petition i.e. 19.11.1996. Payment shall be made within a period of three months from today.

**(Sanjay Karol),  
Judge.**

**March 31, 2009  
(PK)**