IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P No. 1020 of 1995 (O&M)
Date of decision : April 22, 2015

J.S Pardel,
...... Petitioner

v.

Haryana Seeds Development Corporation and others,
...... Respondents

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CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

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Present : Mr. Inderjeet Singh, Advocate
for Mr. Gurdev Singh, Advocate
for the petitioner.

Ms. Shruti Goel, AAG Haryana
for respondent No.1.

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1. **Whether Reporters of Local Newspapers 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 ?**

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Ajay Tewari, J (Oral)

By way of this writ petition, the petitioner has claimed that the pay scale of ₹ 2000-3500 which was granted w.e.f 1.1.1993 should have been granted w.e.f 1.5.1990. The petitioner was working as Assistant Purchase Officer with respondent No.2 which is a government owned company. Pursuant to the revision of pay scales of the government employees w.e.f 1.1.1986, respondent No.2 also gave the corresponding pay scales to its employees with the approval of the government. Thereafter, some government employees pointed out certain anomalies and the Finance

Department of the Government granted some benefits which are shown in Annexure `A' annexed with Annexure P-3. By the said document, for the pay scale, inter-alia, ₹ 775-1025 pay scale of ₹ 1200-2040 was granted and for those employees who had pay scale of ₹ 2000-3200, pay scale of ₹ 2000-3500 was granted. Further, it was clarified that these increased pay scales would be granted only w.e.f 1.5.1990. It is the case of the petitioner that some employees who were in the erstwhile pay scale of ₹ 775-1025 were granted the complete benefit of Annexure `A' and the increased pay scale of ₹ 1200-2040 was granted to them w.e.f 1.5.1990 but, as far as the petitioner is concerned, though a decision was taken to grant higher pay scale of ₹ 2000-3500, the same was restricted only w.e.f 1.1.1993 and not 1.5.1990.

The petitioner earlier filed CWP No.9707 of 1993 but withdrew the same in order to have the redressal of his grievance on administrative side. His representation having been rejected, he is now before this Court.

In reply, the Haryana Seeds Development Corporation (respondent No.2) took the plea that its Board of Directors had recommended that the pay scale be granted w.e.f 1.5.1990 (on the government pattern) but the Haryana Bureau of Public Enterprises (respondent No.3) did not give its concurrence. Respondent No.3 in its turn defended the action of restricting the grant of pay scale w.e.f 1.1.1993 instead of 1.5.1990 on the ground that the decision was taken after considering all the aspects including the financial condition of the Corporation. However, no reason was given as to why for some posts the benefit was granted w.e.f 1.5.1990 and not for other posts.

Counsel for the State of Haryana has not been able to point out any reason why this was done. Had it been a case where respondent No.3

had taken an across-the-board decision to restrict the benefits of the new pay scale to all the employees from 1.1.1993 some thing may have been said but in the present circumstances where no reason has been given for granting the pay scale to some employees w.e.f 1.5.1990 and to other employees w.e.f 1.1.1993, it is not possible to uphold the decision.

Counsel for the petitioners have argued that the matter is no longer res-integra. In LPA No.383 of 2014, Uttar Haryana Bijli Vitran Nigam Ltd and another vs Pawan Kumar and others, decided on 18.02.2015, this Court has held as follows :-

> "12. A learned Single Judge of this Court by a judgment dated 26.11.2010 passed in Civil Writ Petition No.5993 of 1990 **Deva Singh and others v. State of Haryana and others,** held that :-
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> > `24. It is held that the 3rd respondent is the sole authority to take a decision as to the revision of pay of its employees. In the guise of an instruction with respect to the policy decision, the 1st respondent cannot issue an instruction with respect to the pay scales of the employees or the revision of pay scales of the employees of 3rd respondent-Corporation. The instructions, issued by the Ist respondent in the above facts and circumstances of this case, would not bind the 3rd respondent Corporation. The 3rd respondent has virtually surrendered its powers with respect to the revision of pay scales of its employees to the State Government which has no say in the matter. As the State Government has no authority to interfere with the revision of pay scales of the employees of the 3rd respondent-Corporation, the impugned order passed by the 2nd respondent has no legal sanctity. Therefore, the impugned order passed by the 2nd respondent is liable to be quashed.'
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> We do not think it necessary for the purpose of this case to express an opinion regarding the correctness of the judgment. It was not contended before us that the State Government has the power under any statute or other principle of law to issue the directions to the Haryana Power General Corporation Ltd. (HGPCL). Nor was it their case that there was any separate agreement or undertaking entitling the State Government to issue such

> directions to it. It is also important to note that neither the Board of Directors of HGPCL-appellant No.1 nor the Committee of the Managing Directors made their decision subject to the approval of the State Government on the basis that the State Government being only the share-holder ought to have a say in the matter. The decision, therefore, was not for the purpose of obtaining the consent of the State Government as a majority share-holder. The decision was taken purely on the basis of the said instructions."

Counsel for the State of Haryana is not in a position to show as to how the aforesaid decision would not be applicable to the facts of the present cases.

Consequently, this writ petition is allowed and it is directed that the benefit of the higher pay scale of ₹ 2000-3500 be granted to the petitioner w.e.f 1.5.1990 instead of 1.1.1993. The respondents are directed to work out the benefits now accruing to the petitioner and release the same to him within three months from the receipt of a certified copy of this order failing which the petitioner would be entitled to claim the same with interest @ 8% p.a from the date/s the benefits fell due till the date of payment.

(AJAY TEWARI)
JUDGE

April 22, 2015
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