

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

LPA No.1252 of 2015(O&M)

Date of decision:27.8.2015

**Haryana State Industrial & Infrastructure Development Corporation
Ltd.Appellant**

VERSUS

Manohar Lal Sharma and othersRespondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present: Mr. D.S. Nalwa, Advocate for the petitioners.

Mr. R.K. Malik, Senior Advocate with
Mr. Vijay Dahiya, Advocate for caveator.

HEMANT GUPTA, J.(Oral)

The present Letters Patent Appeal under Clause X of the Letters Patent is directed against an order passed by learned Single Bench of this Court on 29.01.2015 whereby the writ petition filed by the writ petitioners (respondents herein) was allowed finding that the writ petitioners are entitled to revised pay-scale as per the decision of the Board of Directors of the appellant.

Though, the argument of learned counsel for the appellant is that the finding of the learned Single Bench that the State Government has no role to play in the matter of policy decisions is not sustainable, but we find that such issue need not be examined in the facts of the present case.

Admittedly, a sub-committee constituted by the appellant considered the issue of pay-scale to the writ petitioners called 'left-over employees'. Such recommendation of the sub-committee reads as under:-

“4. Keeping in view the above changed scenario, the Committee decided to recommend that these left-over employees may also be accommodated, as a one time measure, in order to minimize any heart-burning among these employees, and allowed grade pay equal to their counterparts in the professional stream w.e.f. 01.01.2006. The executives of IT Cadre, who had earlier been allowed the professional scale w.e.f. 2.8.2008, should also be entitled for the professional scale w.e.f. 01.01.2006. However, the executives in ‘non-professional stream’ should continue to be considered for promotion in their own non-professional stream up to the level of Senior Managers in all streams of the Corporation. The promotion at the level of AGM and above should be strictly restricted only for those executives who possess the required professional qualifications as per the Recruitment & Promotion Policy of the Corporation.”

The Board of Directors approved such recommendation of the sub-committee in its 315th meeting on 22.12.2011. The decision reads as under:-

“The Board, after consideration, resolved to approve the recommendations of the Committee of Directors, constituted by the Board for personnel matters, under the Chairmanship of Principal Secretary Industries, as circulated to the Board.

The Board authorized the Managing Director to take further necessary steps in the matter.”

Instead of implementing the recommendation of the sub-committee recommending the revised pay-scale to the left-over employees such as the writ petitioners, the Managing Director of the Corporation made a reference to the State Government. On such reference, the State Government communicated on 27.08.2012 the following:-

“i) In so far as the competence of the Board of Directors of HSIIDC to take a decision in the matter in terms of provisions contained in Article 95 of the Articles of Association of HSIIDC is concerned, the Board of Directors itself has decided to make a reference to Government. It has been observed that the Board of

Directors has not found the representation of the petitioners maintainable in view of a clear distinction between the “Professional” and “Non-Professional” stream of employees. The HSIIDC may accordingly take action for implementation of its decision qua the issues raised by the representationists/petitioners.

- ii) As regards its proposal for grant of one time benefit for the left over employees, the HSIIDC may re-examine its proposal while restructuring and formulating its Recruitment and Promotion Policy.”

Admittedly, the Board of Directors of the appellant has not taken any decision superseding its decision taken in its 315th meeting. It is the said decision which has been ordered to be given effect to by learned Single Bench.

We find that the reliance of the appellant on Article 95 or Article 135 of the Memorandum of Association is not really an issue arising in the present case as the fact remains that the Board of Directors, as a competent decision making authority, has decided to grant revised pay-scales to the left-over employees. The State Government did record that Board of Directors has not found the representation of the petitioner maintainable in view of the clear distinction between ‘Professional’ and ‘Non-Professional’ stream of employees but in fact that was not the decision of the Board of Directors but the communication of the Managing Director of the Appellant which led to the communication dated 27.08.2012.

As a matter of fact, the argument of the appellant is that circular dated 15.12.2000 has not been followed, which is binding on all Boards and Corporations. We find that such argument does support the appellants. In the said circular issued by the Member Secretary, Haryana

Bureau of Public Enterprises to all the Managing Directors/Chief Administrators to all State Public Enterprises in Haryana including the writ petitioners is to the following effect:

- “a) The concerned Enterprises should get its proposal pertaining to creation/ upgradation of revision of pay scales etc. approved from its Board of Directors and subsequently in Administrative Department at the level of the concerned Administrative Secretary. Such proposal should be forwarded for the approval of the Standing Committee in agenda forms.
- b) The decisions of the Standing Committee should be got approved from the Hon’ble C.M. concerned Administrative Department before conveying the necessary approval/ sanction concerned Public Enterprises.”

Admittedly, the Board of Directors has taken a decision in its 315th meeting. The State Government has not rejected the decision of the Board of Directors. Thus, we do not find any merit in the argument raised by learned counsel for the appellant that the writ petitioners are not entitled to revised pay-scales.

Consequently, we do not find any merit in the present appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

AUGUST 27, 2015
‘D. Gulati’

(RAJ RAHUL GARG)
JUDGE