

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

**CWP No.11498 of 1995
Date of decision: 12.07.2016**

K. Jasal and others

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Ravinder Malik (Ravi), Advocate,
for the petitioners.

Mr. Rajesh Gaur, Addl. A.G., Haryana.

Mr. Jagjeet Beniwal, Advocate,
for respondent No.3.

Ritu Bahri, J.

Petitioners are seeking a writ of certiorari for quashing the order on agenda item No.7 rejecting the proposal for granting the pay scale of Rs.3000-4500 to the Chief Seed Certification Officer of Haryana Seed Certification Agency dated 24.04.1995. A further direction is sought to be issued to the respondents to grant the above said pay scale w.e.f. 01.01.1986 as approved by the Governing Board in its 43rd meeting held on 14.01.1994 and grant of pay scale of Rs1400-2100 w.e.f. 01.02.1981 as per the decision taken by the Governing Board on 28.03.1986.

The petitioners were working in the respondent-agency as Seed Certification Officers. Later on, they became Chief Seed Certification Officers on the dates given below:-

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|----|------------------|---|------------|
| 1. | Bali Singh Verma | : | 30.11.1982 |
| 2. | K. Jasal | : | 12.05.1989 |
| 3. | A.P. Singh | : | 15.02.1990 |
| 4. | D.R. Mittal | : | 07.04.1991 |

The pay scales of equivalent post of Haryana Seed Development Corporation and the respondent-agency were similar from the very beginning. The Governing Board decided to grant the pay scale of Rs.1400-2100 and Rs.3000-4500 to the Chief Seed Certification Officers from the dates the Haryana Seeds Development Corporation had granted to its officers in the rank of Regional Manager/Quality Control Manager/Senior Marketing Officers w.e.f. 01.02.1981 and 01.01.1986 respectively. The Board gave approval to grant the above said pay scales in its meeting held on 14.01.1994 (Annexure P-1). The Commissioner & Secretary to Government of Haryana, Agriculture Department, vide letter dated 09.02.1994 (Annexure P-3) had also recommended the case of the Chief Seed Certification Officers for removal of anomalies in the pay scale from Rs.2200-4000 to Rs.3000-4500. Vide order dated 12.07.1988 (Annexure P-5), the Government of Haryana revised the pay scales of the employees of the Haryana State Seed Certification Agency w.e.f. 01.01.1986. Pay scales of Chief Seed Certification Officers had been revised as under:-

Sr. No.	Name of the Post	Existing Pay Scale	Revised Pay scale
12.	Chief Seed Certification Officer	1200-1860 (on 01.04.1979) 1400-2100 (on 01.01.1986)	2200-4000

As per Haryana Civil Services (Revised Pay) Rules, 1987 (Annexure P-6), pay scale of Rs.1400-2100 was revised to the pay scale of Rs.3000-4500 w.e.f. 01.01.1986. In order to remove anomalies, some of the petitioners made representations to the respondent-corporation. The pay scales of their counter parts i.e. Regional Manager, Senior Marketing Officers and Quality Control Managers were revised in the Haryana Seeds Development Corporation to Rs.3000-4500 vide letter dated 26.02.1991

(Annexure P-7) issued by the Commissioner & Secretary to Government of Haryana, Agriculture Department. After coming to know about the said letter, petitioner No.2 made a representation dated 14.03.1991 (Annexure P-8), followed by reminders dated 05.02.1992, 22.09.1992. However, the proposal for removal of anomalies was not approved by the Standing Committee of Public Enterprises in its meeting held on 24.04.1995 (Annexure P-11). Hence, this petition.

In its written statement, the Haryana State Seed Certification Agency-respondent No.3 has taken a stand that case for revision of pay scales was recommended by the said agency to the State Government, but the same has been rejected by the competent authority. It is further clarified that the petitioners were drawing the scale of Rs.1200-1860 and not Rs.1400-2100 prior to revision of pay scales w.e.f. 01.01.1986. The proposal was sent by the agency for revision of pay scale to Rs.3000-4500, which has not been granted approval. The pay scale of Chief Seed Certification Officer was revised from Rs.1200-1860 to Rs.2200-4000 w.e.f. 01.01.1986. As per petitioners, they were getting the scale of Rs.1400-2100 as on 01.01.1986. As regards anomalies in the pay of the petitioners and the employees of the Haryana Seeds Development Corporation, it has been explained that the nature and duties in both the institutes are different. Hence, it cannot be a case of anomaly. The Standing Committee on Public Enterprises examined the case recommended by respondent NO.3 and rejected the claim of grant of pay scale of Rs.3000-4500 on the ground that the petitioners cannot be equated with the posts of Haryana Seeds Development Corporation for all intents and purposes, including the revision of pay scales as their nature and duties are entirely different.

Haryana State Seed Certification Agency, respondent No.1 adopted the written statement filed by respondent No.3.

Heard, counsel for the parties.

In its written statement, respondent No.3 has stated that the Governing Board of respondent No.3 had approved the revision of grades in its 23rd meeting held on 28.03.1986 with the condition that the revised grades would be implemented as per the procedure and practice followed by the Haryana Seeds Development Corporation. Thereafter, as per instructions dated 22.07.1981, respondent No.1 directed all the Heads of Departments not to take any such decision on its own and the matter, first would be referred to the Finance Department. Following the above directions, even the Haryana Seeds Development Corporation got approval of Finance Department, Haryana for revising the pay scales of the post of Regional Manager/Quality Control Manager/Senior Marketing Officer etc. from Rs.1200-1860 to Rs.1400-2100. In the meantime, the pay scales were revised by the respondent-State w.e.f. 01.01.1986. In view of the revision of pay scale, the Governing Board of respondent-agency in its 25th meeting held on 19.06.1987 proposed revision of pay scales for the post of Chief Seed Certification Officer amongst other categories of employees from Rs.1200-1860 to Rs.2200-4000 w.e.f. 01.01.1986 to 27.03.1986 and from Rs.1400-2100 to Rs.3200-4500 w.e.f. 28.03.1986.

Once the Finance Department approved the revision of pay scales, in this background, respondent No.3 had sent recommendation for revision of pay scales from Rs.1400-2100 to Rs.3200-4500. For all intents and purposes, the pay scales stood revised from Rs.1200-1860 to Rs.1400-2100 on 28.03.1986. Thereafter, w.e.f. 01.01.1986, pay scale of Rs.1400-2100

revision of pay scale was sent to be placed before the appropriate authority.

As per the stand taken by respondent No.3, the Finance Department had granted approval of the revision of pay scales from Rs.1200-1860 to Rs.1400-2100 w.e.f. 28.03.1986. This fact has been admitted by the Chairman, Haryana State Seed Certification Agency-respondent No.1. Hence, for all intents and purposes on 28.03.1986, the Finance Department had granted approval to the revision of pay scales from Rs.1200-1860 to Rs.1400-2100. Once, the pay scale of Chief Seed Certification Officer was revised to Rs.1400-2100 w.e.f. 01.01.1986 on 28.03.1986, the claim of the petitioners that their scale should be revised to Rs.3000-4500 cannot be rejected. As per Haryana Government Gazette notification dated 29.04.1987 (Annexure P-6), the first schedule of the revised scale of Rs.1400-2100 is Rs. 3000-4500. Hence, the Finance Department had granted approval for grant of pay scale of Rs.1400-2100 w.e.f. 28.03.1986 to the petitioners, who were appointed as Chief Seed Certification Officers. As per Annexure P-6, this pay scale was revised to Rs.3000-4500. Thus, the petitioners' case fall in the category of 'anomaly' as by mistake they have been given wrong pay scales. Keeping in view that the Finance Department had accepted the recommendations made by the Governing Board of the respondent-agency, Haryana Bureau of Public Enterprises has wrongly rejected the case of revision of pay scales on the ground that the petitioners were getting the scale of Rs.1200-1860 prior to revision of pay scales.

At this stage, reference can be made to the Bye Laws of Haryana State Seed Certification Agency. Rule 21 of these Bye Laws deals with the powers of the Board with regard to terms and tenure of appointment,

emoluments, allowances, rules and discipline and other conditions of service

of the officers and other staff of the agency. For reference, the said rule is reproduced as under:-

“21. Powers of the Board

- (i) With the approval of the Central Seed Certification Board, the Board, shall have the power to frame regulations, not inconsistent with these Rules and to alter, amend, and repeal these from time to time for the administration and management of the affairs of the Agency and for carrying out its objectives in the preparation and sanction of budget estimates, the sanctioning of expenditure making and execution of contracts, the investment of the funds of the Agency and accounts and audit.
- (ii) Procedure for appointment of the officers & other staff of the Agency.
- (iii) The terms and tenure of appointment, emoluments, allowances, rules and discipline and other conditions of service of the officers and other staff of the Agency.
- (iv) Powers, functions and conduct of business of such committees as may be constituted from time to time.”

A similar question came up for consideration before a Co-ordinate Bench of this Court in **Deva Singh Vs. The State of Haryana and others**, CWP No.5993 of 1990 (decided on 26.11.2010). In that case, the petitioners were working in the Haryana Financial Corporation. A decision was taken to give them the pay scales at par with the Assistant District Attorney in the Haryana Government. The Managing Director of the corporation recommended the revised pay scales of Assistant District Attorney and the Deputy District Attorney attached to the Government of Haryana, to the Legal Assistants and the Law Officers attached to the Corporation. The Board of Directors approved the revision of pay scales at par with those serving in State of Haryana. Decision of the Board was sent to the Government of Haryana for approval. However, the Commissioner and Secretary, Industries Department, Haryana, rejected the recommendations submitted by the Haryana Financial Corporation. It was held that Haryana

affairs in terms of Section 9 of the State Financial Corporations Act. The pay structure of its employees and their service conditions are regulated by the State Financial Corporation invoking its power under Section 23 of the Act. The State Government has nothing to do with the regulation of the pay of the employees of the Financial Corporation or the revision of pay of its employees. The State had no authority under the State Financial Corporation Act, 1951 to instruct the Haryana Financial Corporation with respect to the revision of pay of its employees. The writ petition was allowed and a direction was given to the Board to revise the pay scale of the petitioners as per the decision taken by the Board of Directors. In that judgment, it has been further observed that as per Section 39 of the State Financial Corporations Act, 1951, it is only the policy matters relating to financial affairs of the Financial Corporation, where the advise of the Government is to be taken by the Corporation. This advise is not to be taken by the Corporation for fixing the pay scales/terms and conditions of the employees as this power vests in the Board of Directors under Section 23 of the Act. The aforesaid judgment has been followed by a Division Bench of this Court in **Uttar Haryana Bijli Vitran Nigam Ltd. and another Vs. Pawan Kumar and others**, LPA No.383 of 2014 (decided on 18.02.2015) and it has been held that the State Government has no power under the statute to issue directions to Haryana Power General Corporation Ltd. (HPGCL). The State was only a shareholder. In that case, a decision had been taken by the Managing Director and by the Whole Time Directors with regard to pay fixation and time scales for Company Secretary, Finance Accounts & Audit and HR Wing. The recommendations were approved subject to the approval of the State Government as per notification dated

proposal regarding pay fixation and in this background, the writ petition was filed by the petitioners. The Division Bench of this Court by making reference to the decision given in **Deva Singh's** case (supra), held that the State Government could not issue directions to the Haryana Power General Corporation Ltd. (HPGCL) for fixing the pay scales of their employees. The decision taken by the Board of Directors of HPGCL and the Committee of the Managing Director was not subject to approval of the State Government. At the same time, the State Government was only a shareholder and the HGPCL had the power to fix the pay scale or remove the anomaly. There was no necessity to take approval of the State Government.

In the present case, power to review the pay scale as per Rule 21 of the Act is with the Board of Directors and hence, by applying the ratio of the aforesaid judgments to the facts of the present case, once the recommendations regarding revision of pay scales have been approved by the Finance Department, as stated in para No.4 of the written statement filed by respondent No.3 and pay scale was revised from Rs.1200-1860 to Rs.1400-2100 w.e.f. 28.03.1986, the petitioners for all intents and purposes, were entitled to revision of their pay scales to Rs.3000-4500 as per Annexure P-6.

In view of the above discussion and the law laid down in **Deva Singh** and **Pawan Kumar's** cases (supra), this petition is allowed and the respondents are directed to fix the pay of the petitioners in the scale of Rs.3000-4500 with effect from the date they were granted the scale of Rs.1400-2100 i.e. 28.03.1986 along with all consequential benefits.

(RITU BAHRI)
JUDGE

12.07.2016