

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.194 of 2007

Date of Decision:- 06.04.2016

Sanjeev Ojha and others

....Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. S.M. Tripathi, Advocate
for the petitioners.

Mr. Hitesh Pandit, Additional Advocate General, Haryana.

RITU BAHRI, J. (Oral)

Petitioners are seeking quashing of letters dated 09.03.2000 (Annexure P-2) and dated 24.01.2006 (Annexure P-5) by which they had been granted revised pay scale w.e.f. 01.04.2005 instead of 01.01.1996.

Petitioners are employees of the Haryana State Cooperative Housing Federation Ltd., Panchkula (for short 'the Federation'). Their services were governed with the Staff Service Rules of the Haryana State Cooperative Housing Federation Ltd. (hereinafter to be referred as the 'the Rules') As per Rule 11.1 of the Rules the pay-scales is to be revised from time to time by the Managing Committee of the Federation. The Haryana Government has revised the pay scales of its employees as per report of 5th Pay Commission dated 01.01.1996. Vide letter dated 12.10.1998, a Pay

Revision Committee gave its recommendation. The petitioners, who are the employees of Class III and IV category, made a representation dated 13.03.1999, requesting the Federation to implement the report submitted by 5th pay commission. Respondent No.3 had recommended the case of revision of pay scale of the petitioners' w.e.f. 01.01.1996 (Annexure P-2) to respondent No.2. The petitioners thereafter filed CWP No.13972 of 2000 and during the pendency of the said writ petition the petitioners were granted the benefit of revision of pay-scales w.e.f. 01.04.2005, vide letter dated 24.01.2006 (Annexure P-5). The above-said writ petition was disposed of with the liberty to the petitioners to challenge the order dated 24.01.2006, vide order dated 27.01.2006 (Annexure P-6). Hence, the present writ petition before this Court.

Petitioners are seeking revision of pay-scales w.e.f. 01.01.1996 as per the judgment of Division Bench of this Court in **CWP No.17375 of 1998** titled **Ram Murti Beniwal and others Vs. State of Haryana and others, decided on 12.05.1999.**

A perusal of above-said judgment shows that the losses had been suffered by the Bank on account of waiving of interest on loans and the Bank had given revision of pay scales w.e.f. 01.01.1996 to Class I and II employees. This benefit had not been extended to Class III and IV employees. The Division Bench observed that the Bank was actually running in profit. Consequently, the writ petition was allowed and the petitioners were granted the revised pay scales w.e.f. 01.01.1996.

Upon notice, the stand taken by the respondent No.3 in the written statement is that Class I and II employees of the Federation have

been given the benefit of revision of pay scales from 01.01.1996 and all the other employees have been granted the revised pay scale w.e.f. 01.04.2005.

In the written statement filed by respondent Nos.1 and 2, the stand taken therein in the preliminary objection is stated that the Federation had been incurring losses during the year 1995-96, 1996-97 and 1997-98 and in this background the case of the employees of the Federation for the grant of revised pay scales 1.1.1996 are to be considered separately as per decision of Finance Department, vide its letter dated 12.10.1998 (Annexure R-2). It is further admitted that the Managing Director of the Federation made a request to the Registrar Societies Haryana to recommend and forward the case to State Government, vide letter dated 09.03.2003 for revision of pay scales of the Federation w.e.f. 01.01.1996. Thereafter, the latest position of the Federation up to 31.03.2000 was sought by respondent No.2, vide letter dated 26.05.2000. The Government further observed that the Federation had wiped out of its accumulated losses in the year 2003-2004 and thereafter granted approval of revised pay scales for different categories of posts of the employees of the Federation was accorded w.e.f. 01.04.2005 by the Government, vide letter dated 24.01.2006 (Annexure R-3). The claim of revision of pay scales w.e.f. 01.01.1996 was not justified on account of loss suffered by the Federation.

Recently, the Supreme Court in the case of **Haryana State Minor Irrigation Tubewells Corporation and others** Vs. **G.S. Uppal and others**, 2008 AIR SCW 3388 has considered the case of the employees, who were declared surplus in the Corporation on account of closer of the Corporation. They were claiming the benefit of revision of pay

scale at par with the engineers of the State Government. They were entitled to revise pay scales which were given to the engineers. Subsequently, on account of removal of the anomaly, the revised pay scales were not being given to them as the corporation has closed down on account of suffered losses. In para No.24 of the judgment, the Supreme Court has held as under: -

“24. The plea of the appellants that the Corporation is running under losses and it cannot meet the financial burden on account of revision of scales of pay has been rejected by the High Court and, in our view, rightly so. Whatever may be the factual position, there appears to be no basis for the action of the appellants in denying the claim of revision of pay scales to the respondents. If the Government feels that the Corporation is running into losses, measures of economy, avoidance of frequent writing off of dues, reduction of posts or repatriating deputationists may provide the possible solution to the problem. Be that as it may, such a contention may not be available to the appellants in the light of the principle enunciated by this Court in **M.M.R. Khan v. Union of India** [1990 Supp. SCC 191] and **Indian Overseas Bank v. I.O.B. Staff Canteen Workers' Union**[(2000) 4 SCC 245]. However, so long as the posts do exist and are manned, there appears to be no justification for granting the respondents a scale of pay lower than that sanctioned for those employees who are brought on deputation. In fact, the sequence of events, discussed above, clearly shows that the employees of the Corporation have been treated at par with those in Government at the time of revision of scales of pay on every occasion. It is an admitted position that the scales of pay were initially revised w.e.f. April 1, 1979 and thereafter on January 1, 1986. On both these occasions, the pay scales of the employees of the Corporation were treated and equated at par with those in Government. It is thus an established fact that both were similarly situated. Thereafter, nothing appears to have happened which may justify the differential treatment. Thus, the Corporation cannot put forth financial loss as a ground only with regard to a limited category of employees. It cannot be said that the Corporation is financially sound insofar granting of revised pay scales to other employees, but finds financial constraints only when it comes to dealing with the respondents, who are similarly placed in the same category. Having regard to the well reasoned judgment of the Division Bench upholding the judgment and order of the learned Single Judge, we are of the view that the impugned judgment

warrants no interference inasmuch as no illegality, infirmity or error of jurisdiction could be shown before us.”

In the present case, the Corporation after suffered losses, has revived back in the year 2003-2004 by accumulated profit of ₹4.08 lacs and additional financial liability on account of revision of pay scales of the employees of the federation is to the tune of ₹14.40 lacs per annum. Federation has accumulated profits of ₹1.67 crores as on 31.03.2005.

Applying the ratio of above said judgments to the facts of the present case, the present writ petition is allowed and the respondents are directed to give the revised pay-scale w.e.f. 01.01.1996 to the petitioners, within a period of three months, from the date of receipt of certified copy of this order and thereafter a compliance report be sent to this Court.

April 06, 2016
naresh.k

(**RITU BAHRI**)
JUDGE