

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.1243 of 2016 (O&M)

Date of Decision: 21.07.2016

The Shahabad Cooperative Sugar Mill Ltd.

... Appellant

VS.

Yashvir Dalal & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE DARSHAN SINGH

Present: Mr. Sourabh Goel, Advocate for the appellant

Mr. RK Malik, Senior Advocate with

Mr. Bhupinder Malik, Advocate for caveator/respondents

SURYA KANT, J. (Oral)

(1) This Letters Patent Appeal is directed against the order dated 03.05.2016 whereby learned Single Judge allowed the writ petition filed by the private respondents and has directed the appellant-Sugar Mill to grant entry pay scales to the writ-petitioners as per the notification dated 30.12.2008 (P2) with all consequential benefits.

(2) The facts as such are not in dispute. Respondent No.1 to 8 are employees of appellant-Sugar Mill and have been appointed on their respective posts after 01.09.2009. They approached this Court seeking to set aside the orders regarding the pay fixation and sought further direction to fix their pay as per Haryana Civil Service (Revised Pay) Rules, 2008. The applicability of these Rules was claimed in the light of the Circular dated 28.08.2009 (P1) issued by the Haryana State Federation of Cooperative Sugar Mill Ltd. (in short, 'the Sugarfed') which is the apex body of Cooperative Sugar Mills. Further reliance was placed on another circular of even date i.e. 28.08.2009 (P7) of the State Government addressed to the Managing Director of Sugarfed whereby the State Government agreed to

allow the revision of pay scales of the employees of all the Cooperative Sugar Mills of Haryana State w.e.f. 01.09.2009.

(3) The appellant-Sugar Mill resisted the claim of private respondents on the strength of Circular dated 11.11.2009 (P6) which has been issued by the Sugarfed in partial modification of its office letter No.SMF-2009/Esstt./3340-49 dated 28.8.09 “*vide which the pay scale of employees of Coop. Sugar Mills were revised w.e.f. 1.9.09*”. Serial No.7 of that Circular is to the following effect:-

<i>“7. Fixation of pay for fresh recruits on or after 1.9.2009</i>	<i>Fresh appointee to be allowed initial of the pay scale.”</i>
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(4) Learned Single Judge has accepted the claim of the respondents primarily on the basis of Circular dated 28.08.2009 (P1) read with the Government communication of the same date (P7) and has consequently issued the directions referred to above.

(5) The respondents are on caveat. We have heard learned counsel for the parties at a considerable length.

(6) On a minute analysis of the order under appeal, we find that attention of the learned Single Judge could not be drawn to the Circular dated 11.11.2009 (P6) which has been issued in partial modification of its earlier circular dated 28.08.2009 (P1).

(7) While the respondents contend that Circular (P6) does not cause any impediment against fixation of their pay under the 2008 Rules, learned counsel for the petitioner-Sugar Mill submits that the employees have been classified in two groups, namely, those who were appointed before 01.09.2009 and those who came to be appointed thereafter.

(8) According to him the employees appointed on or after 01.09.2009 are to be allowed “initial of the pay scale” i.e. the basic pay only without “any further addition”. However, that would not be true in the case of employees appointed prior to 01.09.2009 as their case is required to be fixed as per Clauses 6, 8, 9 & 10 of the Circular dated 11.11.2009 (P6), referred to above.

(9) It does not appear necessary for us to consider as to whether or not the later circular dated 11.11.2009 has any bearing on the claim of respondents, for the effect of that circular, if any, has not been gone into by learned Single Judge. Since the pay of employees appointed after 01.09.2009 was fixed by the Mill as per the said Circular which has been issued by Sugarfed in partial modification of its first decision dated 28.08.2009, we are satisfied that the matter requires re-consideration by learned Single Judge. We thus without expressing any views on merits, set aside the order dated 03.05.2016 and remit the case to the learned Single Judge for fresh adjudication keeping in view the overall effect of all the Circulars/Rules referred to by the parties.

(10) We reiterate at the cost of repetition that this order shall not be taken as an expression of views on the merits of the respondents’ claim.

(11) Parties are directed to appear before the learned Single Judge as per roster on 01.08.2016.

(Surya Kant)
Judge

21.07.2016
vishal shonkar

(Darshan Singh)
Judge