

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

CWP-11475-2016

Date of decision: 29.10.2018

Jasbir Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. B.S. Rathee, Advocate for the petitioners.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

Mr. Arun Sharma, Advocate for
respondents No. 3 and 4.

Ritu Bahri, J. (Oral).

The petitioners are seeking writ of certiorari for quashing the impugned decision of Board of Directors dated 23.12.2011 (Annexure P-6), order dated 27.01.2016 (Annexure P-11), order dated 03.02.2016 (Annexure P-12) and letter dated 08.01.2016 (Annexure P-14) whereby the petitioners have been denied the Children Education Allowance as per the instructions of Government of Haryana.

The petitioners are working on different posts in the respondent No. 3 i.e. The Haryana State Cooperative Agriculture and Rural Development Bank Ltd. (HSCARDB) and they are seeking benefit of children education allowance as Government of Haryana vide letter dated 18.06.2009 has introduced a scheme by the name of Children Education Allowance for the employees of Government of Haryana (Annexure P-1) and further modifications were made in the scheme vide letters dated 17.06.2010 (Annexure P-2), 23.08.2010 (Annexure P-3) and 07.09.2010

(Annexure P-4). Vide letter dated 27.08.2014 (Annexure P-5), the Government of Haryana decided to revise the Children Education Allowance from 500/- per month to 750/- p.m. w.e.f. 01.04.2014.

A demand was made by employee's Union of respondent No. 3 that as per Rule 6 of the Staff Service Rules HSCARDB, they are entitled to the benefit of Children Education Allowance scheme (Annexures P-1 to P-5). The relevant rule is as under:-

6.2 The Board may revise the existing scale of pay given in ANNEXURE -11 from time to time subject the prior approval of the Registrar.

6.3 (i) The rates of dearness allowance and other allowances would be equal to the allowances admissible under the Government rules from time to time.

The Staff Service Rules of HSCARDB is annexed as Annexure P-9.

The petitioners filed ***CWP-5633-2015 Jasbir Singh and others V/s. State of Haryana and others*** which was disposed of on 26.03.2015 (Annexure P-10) with direction to respondent No. 2 to take a decision within 2 months. Thereafter COCP-3214-2015 was filed and during the pendency, order dated 27.01.2016 was passed and COCP was rendered infructuous. As per the order dated 27.01.2016 (Annexure P-11), scheme was adopted w.e.f. 08.01.2016 for one child @ 500/- p.m. and subsequently said letter was modified from Rs.500/- to Rs.750/- p.m. w.e.f. 01.02.2016 vide letter dated 03.02.2016 (Annexure P-12).

It is further mentioned that respondent No. 3 sent a letter dated 29.04.2015 (Annexure P-13) to respondent No. 2 for approval of addition

of Chapter-III of Service Rules of the HSCARDB whereby the provisions have been made for grant of Children Education Allowance but respondent No. 1 vide letter dated 08.01.2016 (Annexure P-14) has declined the suggestion of respondents No. 2 and 3 stating that these are the executive instructions and are not permanent in nature and there is no need to amend the Service Rule.

Learned counsel for the petitioners has further argued that once the Bank has taken a conscious decision to give benefit of children education allowance with respect to one child and respondent No. 3 is bound by rule 6 of Staff Service Rules to give dearness allowance and other allowance equal to the allowances admissible as per govt. rules from time to time, they should give it to two children. As per the instructions issued by State of Haryana vide Annexures P-1 to P-5, it cannot discriminate by restricting it to one child.

Learned counsel for the respondents has argued that the matter was taken up by the Board of Directors on 13.12.2011 itself and the Board of Directors has unanimously resolved to accept the Govt. letter dated 18.06.2009 regarding grant of education allowance to the employees of HSCARDB with immediate effect for one child keeping in view weak financial position of the bank due to poor recovery. This matter was sent to RCS Haryana for making necessary addition in the Staff Service Rules. The Government vide letter dated 08.01.2016 (Annexure P-14) stated that there was no need for amendment of service rules for implementation of such instructions and it was advised that decision be implemented with regard to grant of education allowance to the employees of the Bank. The advise given on 08.01.2016 was conveyed to Managing Director of

HSCARDB vide letter dated 21.01.2016 by respondent No. 2 and thereafter the necessary benefit has been extended to all the employees. As per the affidavit filed on behalf of respondent No. 3 and 4, they have placed on record agenda No. 7 of the meeting of Board of Directors dated 23.12.2011 (Annexure R-1) and then the proposal was sent to the Registrar Cooperative Societies, Haryana- respondent No. 2. Vide letter dated 07.03.2012 (Annexure R-4), respondent No. 2 had asked respondent No. 3 about the financial implication involved for making amendment in Rule 20.01 of the Staff Service Rules of respondent No. 4. A reply was given on 12.04.2012 (Annexure R-5) and further communication was made between respondents No. 2 and 3 (Annexure R-9 to R-11) with regard to presence of representative of Finance Department in the meeting of Board of Directors. Finally respondent No. 2 conveyed the decision of respondent No. 1 to respondent No. 3 vide letter dated 21.01.2016 regarding implementation of resolution of Board of Directors dated 23.12.2011 vide letter dated 21.01.2016 (Annexure R-12). Subsequently Board of Directors vide its resolution dated 06.09.2017 (Annexure R-15) resolved to give education allowance for two children w.e.f. 08.01.2016. Vide letter dated 23.10.2017 (Annexure R-16), the Board of Directors have decided to give education allowance for two children at par with other employees as per the Government instructions (Annexures P-1 to P-5).

After hearing learned counsel for the parties, it is not disputed that for the purpose of granting education allowance to the employees of HSCARDB, no amendment is required to be made in the service rules as this fact has been clarified by Registrar Cooperative Societies in the written statement filed on 27.02.2017. In para 5 of the written statement, it has

been clarified that the Government vide letter dated 08.01.2016 had informed that for the purpose of implementing the scheme of education allowance to the employees of the State Government, there is no need to amend the service rules and the Board of Directors of HSCARDB can implement the decision taken on 23.12.2011. Once the Government clarified that Board of Directors resolution should be made effective from 23.12.2011, the present writ petition is allowed and the respondent No. 3 i.e. The Haryana State Cooperative Agriculture and Rural Development Bank Ltd. (HSCARDB) is directed to give benefit of education allowance as per instructions Annexures P-1 to P-5 to all the employees w.e.f. 23.12.2011 for two children keeping in view the resolution passed by the Bank on 23.10.2017 (Annexure R-16) with interest @ 6% per annum.

29.10.2018

Divyanshi

**(RITU BAHRI)
JUDGE****Whether speaking/reasoned**

:

Yes/No**Whether reportable**

:

Yes/No