

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

CWP-11602-2014

Date of Decision: July 19, 2019

Harish Kumar and Ors

... Petitioners

vs.

Registrar Cooperative Societies Punjab and Ors

.. Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. Animesh Sharma, Advocate
for the petitioners.

Ms. Ambika Bedi, A.A.G.Punjab.

Mr. Vikas Singh, Advocate
for respondent No.2.

ARUN MONGA, J.(ORAL)

Grievance of the petitioners, who are/were serving as Draughtsman/Assistant Accounts Officers and Senior Clerk in SUGARFED (respondent No.2), is that despite specific Resolution dated 14.05.2013 (Annexure P-3), passed by the SUGARFED to accord them the benefits of conveyance allowance @ Rs.400 to 600 per month, the same are being denied vide impugned order dated 07.11.2013 (Annexure P-5), whereby respondent No.1-Registrar Cooperative Societies, Punjab, Chandigarh did not approve the said Resolution for the posts held by the petitioners while at the same time the said benefits were approved for six other categories of employees.

2. The dispute herein is a very narrow compass, arising out of the interpretation of Rule 5.10 of Punjab State Federation of Cooperative Sugar Mills Ltd. (Service) Rules, 1980. Before proceeding further, it would be relevant to reproduce the said rule which is hereinbelow:

“PAY, ALLOWANCES AND OTHER CONCESSIONS

5.10 (a) The scale of pay and allowances to the members of the service shall be granted by the BOD with the approval of the Registrar subject to the condition that the pay scale and allowances to the members of the service shall not be more than the same granted by Punjab Govt, to its similarly placed employees.

(b) The allowances shall be admissible as per Punjab Government Rules.”

3. A perusal of the Rule above leaves no manner of doubt that the employees of respondent No.2-SUGARFED are entitled to scale of pay and allowances subject to the condition that their pay scales and allowances shall not be more than what is being granted by Government of Punjab to its similarly placed employees. As long as the said parameters are met with, they are to be granted the same, subject to approval of the Registrar. In compliance thereof, a Resolution was placed before the Registrar, who while rejecting the recommendation, qua the categories of the employees to which the petitioners belong, opined that the Draughtsman/Assistant Accounts Officers and Clerks, working in Government of Punjab, have also not been given any conveyance allowance. On that short premise, the Resolution passed by respondent- SUGARFED was shot down. Hence, the writ petition.

4. In the return/affidavit dated 12.10.2016 filed by way of affidavit of Gurneet Tej, I.A.S, Special Secretary, Cooperative, on behalf of respondent No.3, following stand has been taken:

“That in compliance with the above-mentioned direction of the Hon'ble Court it is submitted that the posts of the petitioners and the posts as mentioned in Annexure P-3 which is the proceeding of the meeting of the BOD of Sugar fed

dated 14.05.2013 are same.”

5. However, since the above stand did not clarify the position as to equivalence of the category of the posts of the petitioners with that of the similarly ranked employees of Government of Punjab, this Court directed the State to file a better affidavit vide order dated 21.10.2016 passed by this Court and, thereafter, another detailed affidavit dated 14.03.2017 has been filed, wherein, following stand has been taken:

“it is humbly submitted that the posts cannot be considered equivalent by way of pay scales alone as the nature of work and method of recruitment varies for all the posts concerned.

It is further submitted that the post of Senior Clerk does not exist in State Govt. from 1.1.1996. The Post of Draftsman has not been granted any conveyance allowance by the State of Punjab further the post of Assistant Accounts officer does not exist in the Department of Cooperation. In view of above position the petitioners are not entitled to conveyance allowance.”

6. The above stand is though in consonance with the reasoning adopted in the impugned order but is in contradiction with the earlier stand taken in the affidavit dated 12.10.2016, particularly, if the same is read alongwith the reasoning adopted by the SUGARFED while recommending the grant of the conveyance allowance to the petitioners as is borne out from letter dated 26.12.2013 (Annexure P-6) written by SUGARFED to the Registrar of Cooperative Societies, Punjab, Chandigarh, seeking approval of the Resolution dated 14.05.2013 (Annexure P-3).

7. In the said letter, it was clearly stated that the posts assigned to the petitioners do not exist in the State Government.

8. Learned counsel for the petitioners submits that the post of Draughtsman is equivalent to Senior Assistant/Senior Scale Stenographers, and Senior Clerks in SUGARFED are equivalent to Clerks in State Government and the Accounts Officer is equivalent to Superintendent Grade-II/Accountant in the State Government. He further contends that while passing the impugned order, the said aspect was not considered. He further relies on affidavit dated 14.03.2017 wherein the State Government in no uncertain terms admitted that the posts of the petitioners in terms of pay scale are same as equivalent to the ones in the State Government.

9. Learned counsel for the petitioners submits that employees on the equivalent posts in State of Punjab have been given the benefit of conveyance allowance and, therefore, on the ground of parity, the petitioners are also entitled to the same.

10. In view of the contradictory stand taken in the affidavits filed by the State Government and also in view of my discussion above and the reasoning contained therein, I am of the view that the reasoning adopted by the Registrar does not reflect if he had taken into consideration the fact of equivalence of the petitioners' posts with that of the similarly situated employees of Government of Punjab before passing the impugned order.

11. In the premise, order dated 07.11.2013 (Annexure P-5) is set aside with a direction to the respondents to pass a fresh order in accordance with law.

12. Let the needful be done within a period of three months.

19.07.2019
smriti

(ARUN MONGA)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No