IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(139) **CWP-8142-2022**
Date of Decision : April 21, 2022

Sukhwinder Singh and others **.. Petitioners**

Versus

State of Punjab and others **.. Respondents**

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. H.S. Saggu, Advocate, for the petitioners.

HARSIMRAN SINGH SETHI J. (ORAL)

In the present petition, the prayer of the petitioners is for the grant of benefits of 5th Pay Commission, which have not been given to them and their claim for the same has wrongly been rejected by the respondents vide impugned order dated 11.03.2022 (Annexure P-9).

Learned counsel for the petitioners argues that the petitioners were the employees of the Faridkot Cooperative Sugar Mills Ltd, Faridkot and they had worked for the said Mill for 15 to 20 years before the said Mill was closed by the Management and all the employees were given VRS scheme in the year 2011.

Learned counsel for the petitioners further argues that in the year 2009, the recommendation of 5th Pay Commission had come so as to revise the pay scale of the employees of the Government of Punjab w.e.f. 01.01.2006. Learned counsel for the petitioners submits that as on the date of recommendation, the petitioners were in service, but the pay recommendations were not implemented qua the employees of the respondent- Faridkot Sugar Mill and the pay scale were not revised though, the employees, who were working in the other Sugar Mills, got the revised pay scale. Learned counsel for the petitioners further submits that non-grant of revised pay scale to the employees of Faridkot Sugal Mill, is arbitrary and illegal.

I have heard learned counsel for the petitioners and have gone through the record with his able assistance.

From a bare perusal of the impugned order which has been passed by the respondents dated 11.03.2022 (Anneuxre P-9), it is clear that Faridkot Sugar Mill was ordered to be liquidated in the year 2005 and the process of liquidation was already in progress on the date when the recommendation by the 5^{th} Pay Commission had been given and accepted by the State Government.

It is also conceded by the learned counsel for the petitioners that the liquidation process was already at the final stage when the recommendation of the 5^{th} Pay Commission was accepted by the State of Punjab qua its own employees. In the impugned order, it has been clearly mentioned that a conscious decision was taken not to grant the benefit of revised pay scale to the employees of the Sugal Mills which were under liquidation so as to avoid further financial burden upon them. That being so, no fault can be found with the said decision as the employer is well within its right to decide as to whether, keeping in view the financial liability, the revised pay scale need to be adopted or not. The recommendation by the Pay Commission is only a recommendation and the employer has a right to adopt the same with modification in case, there is any financial burden. The said question of law is clear from the judgment of the Hon'ble Supreme Court of India in ***State of Punjab versus Amarnath Goyal (2005) 6 SCC 754*** and ***State of Punjab versus J.L. Gupta (2000) 3 SCC 736***.

Keeping in view the above, as respondent No.4-Mill, of which the petitioners were the employee, was already under liquidation due to financial distress, it cannot be said that the decision of the respondents not to revise the pay scale of the employees in pursuance to the recommendation of 5th Pay Commission, suffers from any arbitrariness/legal infirmity.

Keeping in view the above, no ground is made out to grant the petitioners the benefit being claimed in the present petition.

Accordingly, the present petition is dismissed.

April 21, 2022 **(HARSIMRAN SINGH SETHI)**
harsha **JUDGE**

Whether speaking/reasoned : Yes
Whether reportable : Yes