

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Letters Patent Appeal No. 691 of 2023 (O&M)
Date of Decision: 25.05.2023

Indian Council of Social Science ResearchAppellant

versus

Dr. Neetu Gaur and othersRespondents

CORAM: HON'BLE MR.JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present : Mr. Salil Sabhlok, Advocate with
Mr. G.S.Sahni, Advocate, for the appellant.

Mr. Anil Rana, Advocate, for the private respondents
No.1 to 17.

Mr. Parvesh K.Saini, Senior Panel Counsel for respondent
No.18-UOI.

Mr. Sanjeev Sharma, Senior Advocate with
Mr. Sandeep Singh, Advocate, for respondents No.19 & 20.

Mr. Avinit Avasthi, Assistant Advocate General, Punjab.

Mr. Sameer Sachdeva, Advocate, for respondent/Employees of
PRC and CRRID.

RAVI SHANKER JHA, CHIEF JUSTICE (oral)

This appeal has been filed by the appellants being aggrieved by the order dated 28.04.2023 passed by the learned Single Judge as well as the order dated 19.0-5.2023 whereby the application filed by the appellants for recalling of the order dated 28.04.2023 has been dismissed.

2. Learned counsel for the appellants submits that the respondents-petitioners were engaged by respondents No. 19 and 20 for some projects under a scheme which were being executed by them. He submits that there is no relationship of employer and employee between the appellant and the respondents-petitioners in the original petition who have prayed for relief of payment of salary only against the respondents No.19 and 20 and not against the appellants before the learned Single Judge. He

submits that inspite of the said admitted undisputed fact, the learned Single Judge has passed the following order:-

“Learned counsel for respondent No.2 has pointed out that on the basis of an enquiry conducted through a Committee headed by a retired Judge of High Court, the funds for the year 2021-22 and 2022-2023 have been withheld as a penal action against respondents No.3 and 4. However, the funds for the year 2023-2024; and onwards, have been agreed to be released to respondents No.3 and 4; under certain stipulations.

2. Learned counsel for the petitioners has submitted that even if some penal action has to be taken against respondents No.3 and 4, then also the petitioners cannot be penalized through non-payment of their salary. They have already worked on the projects initiated by respondents No.3 and 4 in consultation or with the approval of respondent No.2. They are entitled to salary for that period.

3. When confronted with the assertions of the petitioners, learned counsel for respondent Nos. 3 and 4 has not denied the fact that the petitioners have actually worked on the projects initiated and continued in consultation or with the approval of respondent No.2.

4. In view of the above, there is absolutely no ground for non-payment of salary to the employees who have already actually worked on the projects initiated and carried out by the respondents No.3 and 4 in collaboration of respondent No.2, irrespective of any action which respondent No.2 might be contemplating against respondents No.3 and 4.

5. Accordingly, respondents No.3 and 4 are directed to send the details of outstanding salary of the petitioners for the period for which they have actually worked, to the respondent No.2 within a period of two weeks from today. The respondent No.2 is also directed to make the payment of the entire arrears of salary of the petitioners; with the retiral benefits., if any, in their bank accounts directly, within a period of next two weeks from the date of receipt of intimation from respondent Nos. 3 and 4. Needless to say that it is between the respondent No.2 on one hand and respondents No.3 and 4 on the other

hand to settle their mutual differences qua any grants, however, the petitioners cannot be penalized for that.

6. *Adjourned to 25.05.2023 for awaiting necessary compliance.*

7. *Interim order to continue till the next date of hearing.*

8. *The interim order dated 19.07.2022 is also relaxed to the extent that the salary or retiral benefits of the other employees can also be paid by respondents No.3 and 4. However, the salary of the Administrators/Officers of the Institute shall continue to be governed by the interim order earlier passed.”*

3. Learned counsel for the appellant submits that the appellant-council is aggrieved by the fact that inspite of it not being liable to pay the salary of the petitioners (respondents herein), it has been directed to do so by the learned Single Judge vide the impugned order with a further stipulation that it should also deposit the said amount directly into the account of the petitioners. He submits that the original petitioners are the employees of respondents No.19 and 20 and the appellants only give 45% grant to them and the State Government pays 45% and therefore, the direction to pay the entire salary by an interim order is not in accordance with law. He further submits that the application seeking recall of the order dated 28.04.2023 moved by the appellant has also been dismissed by the learned Single Judge without considering these aspects vide order dated 19.05.2023. Hence this appeal.

4. After hearing learned counsel for the appellant-council as well as learned counsel for the petitioners on the strength of caveat, as well as learned counsel for the remaining respondents, it appears that prima-facie the petitioners before the learned Single Judge are not the employees of the appellant and are infact employees of respondents No. 19 and 20. At this stage, learned counsel appearing for respondents No. 19 and 20 submits that as per the decision of the appellants themselves, they are required to release

the grant upto 45% for the year 2023-24. It is also submitted that the inter-se liability of the parties is yet to be decided by the learned Single Bench.

5. Learned counsel for the appellant does not dispute the said aspect of its decision to release 45% grant from 2023 onwards and submits that the appellant-council has already taken a decision to this effect. The parties are also ad-idem that the issue as to whether respondents No. 19 and 20 are entitled to the grant for the period prior to 2023 should be left open to be taken up by the parties in the pending petition.

6. In the circumstances, as the appellant-council has agreed to release the grant to respondents No.19 and 20 for the year 2023-24 to the extent of 45% and has made a statement to that effect before this Court, the present appeal is disposed of in terms of the statement made by learned counsel for the appellant as well as respondents No.19 and 20 before this Court. The impugned order dated 28.04.2023 passed by the learned Single Judge is modified in terms of the statements before this Court and restricted to the statements made by learned counsel for the parties before this Court. Directions to the appellants to pay the salary etc. are set aside. All the questions are all left open to be considered and decided by the learned Single Judge before whom the matter is pending for today as informed by the parties.

7. With the aforesaid modification in the impugned order dated 28.04.2023 passed by the learned Single Judge and in terms of the statements made by learned counsel for the appellant and respondents No.19 and 20 before this Court, the appeal stands disposed of.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

25.05.2023
ravinder

RAVINDER KUMAR
2023.05.26 18:24
I attest to the accuracy and
authenticity of this order/judgment.

Whetherspeaking/reasoned	√Yes/No
Whetherreportable	Yes/No√