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

CWP-14251-2001
Reserved on: 21.03.2024
Pronounced on: 10.04.2024

Azadwinder Singh and others
......Petitioner

Versus

Registrar Cooperative Societies, Punjab, Sector 17 Chandigarh and another
......Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Argued by: None for the petitioners.

Mr. Teevar Sharma, AAG, Punjab.

Mr. Rahul Sharma, Advocate,
for respondent No.2.

NAMIT KUMAR, J.

1. The present petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari quashing the order dated 09.05.2021 (Annexure P-6) passed by respondent No.1 vide which the petition filed by the petitioners under Section 69 of the Punjab Cooperative Societies Act, 1961 (for short, 'the Act, 1961), has been dismissed.

2. Brief facts of the present petition are to the effect that the petitioners are the seasonal permanent employees of respondent No.2- the Nakodar Cooperative Sugar Mills Ltd., Nakodar (for short, 'the Sugar Mill'), which is a cooperative society, duly registered under the provisions of the Act, 1961. After the enactment of Section 84-B of the Act, 1961, the payment of dearness allowance to the employees of the

cooperative societies, is governed by it. Respondent No.1 is duty bound to ensure that no employee of a cooperative society is paid dearness allowance at a higher rate than that admissible to the employee of the Government drawing pay at the same rate. To ensure the compliance with the aforesaid provision, respondent No.1 is required to frame a rule regarding payment of dearness allowance in all the service rules framed or approved by him under any provision of the Act, 1961 or the Rules. The conditions of service of the petitioners are governed by the Punjab State Cooperative Sugar Mills (Service) Rules. The service rules have been framed under Rule 28 of the Punjab Cooperative Societies Rules, 1963 (for short, 'the Service Rules'). However, no Rule provides for 'dearness allowance' and, therefore, in view of Rule 26 of the Service Rules, the same would be governed by the Rules applicable to the employees of the State Government.

3. It is further mentioned in the petition that the Wage Board determines only the wage structure and not the allowance to be paid to those covered by the Wage Board. Rule 13.1 of the Service Rules provides for pay and allowance of the members of the service, however, it does not provide for dearness allowance, as required to be provided for in the Service Rules in order to ensure compliance of Section 84-B of the Act, 1961. In view of the provisions contained in Rule 26 of the Service Rules, the petitioners are required to be paid dearness allowance at par with the employees of the Punjab State Government, however, respondent No.2 is paying the dearness allowance to the petitioners under the Wage Board. The petitioners approached respondent No.1 by

filing a petition under Section 69 of the Act, 1961, for issuance of direction to respondent No.2 to pay the dearness allowance to the petitioners at par with the employees of the Punjab State Government or the employees of other cooperative societies registered under the Act, 1961. However, vide order dated 01.06.1999, respondent No.1 dismissed the said petition. Being dissatisifed with the said order, the petitioners approached this Court by filing CWP-15086-1999, which was allowed vide order dated 16.11.2000 and the case was remanded to respondent No.1 for passing a speaking order. However, vide order dated 09.05.2001, respondent No.1 has rejected the above-noted petition under Section 69 of the Act, 1961. Hence, the present petition has been filed.

4. Upon notice, the respondents put in appearance through their respective counsel. Respondent No.2 filed the written statement with the averments that the petitioners are the employees of the Nakodar Cooperative Sugar Mills Ltd., and their service conditions and pay scales are governed by the recommendations made by the Sugar Wage Board from time to time. As such, the petitioners are not entitled to claim the emoluments over and above to the one which they are entitled to as per terms of their employment and statutory rules. The provision of Section 84-B of the Act, 1961, does not govern the payment of dearness allowance to the employees of the cooperative societies, rather it envisages that a cooperative society cannot grant dearness allowance over and above it being paid by the Government. Each department is governed by its own rules and regulations and, therefore, reliance placed

by the petitioners on the rules governing the employees of different societies, cannot be a basis to claim the demand raised by the petitioners. The recommendations of the Sugar Wage Board are made keeping in view the fact that respondent No.2 runs a seasonal industry wherein the petitioners are getting retaining allowance being seasonal permanent employees, during the off-season, when they do not perform any duties. The petitioners are not entitled to claim dearness allowance at par with the Government employees as they are from a separate and distinct class.

5. On 05.03.2024, there was no representation on behalf of the petitioners and the matter was adjourned for 21.03.2024. Even on 21.03.2024, none had put in appearance on behalf of the petitioners.

6. I have heard learned State counsel and learned counsel for respondent No.2 and perused the record.

7. Learned State counsel and learned counsel for respondent No.2 have contended that the impugned order dated 09.05.2021 has rightly been passed by respondent No.1. The petitioners are being paid the dearness allowance as per the recommendations of the Sugar Wage Board. The petitioners cannot claim themselves at par with the employees of the State Government or any other institution being a distinct class of employees.

8. Admittedly, the petitioners are the seasonal employees working in sugar mills and, therefore, different sets of terms and conditions of the appointment apply to them. They have been employed by the respondent(s) on the terms and conditions of pay and allowance which are recommended by the Sugar Wage Board from time to time. As such,

they cannot claim parity with the employees of the Punjab Government or other co-operative institutions of the State of Punjab, who are placed in different situations with different roles and responsibilities. The recommendations of the Sugar Wage Board deal with the employees of sugar mills, which are in the nature of special provision, however, as claimed by the petitioners that Rule 28 of the Punjab Cooperative Societies Rules, 1963 gives power to Registrar, Co-operative Societies, to issue directions overriding the special provisions is not tenable and contrary to the settled law as special provisions/special laws override the general law.

9. As stated in the written statement, the petitioners are getting retention allowance being seasonal permanent employees. Respondent No.2 runs a seasonal factory, which crushes sugarcane and produces sugar. It does not work for the 12 months in a year. There is an off-season during the year during which the sugar mill remains closed. Furthermore, each society is a separate autonomous organisation and is governed by its bye-laws. The employees of Sugarfed are governed by the Sugarfed Employees Common Cadre Rules and are paid salary and allowance accordingly. However, the petitioners have been appointed as per the recommendations of the Sugar Wages Board and their conditions of services are governed accordingly. There is no violation of Article 14 of the Constitution of India. The petitioners cannot claim the dearness allowance on the basis of the Punjab State Cooperative Agricultural Service Societies (Service) Rules, 1997 and the Punjab Cooperative Financing Institutions Service Rules, 1958, for the reason that they

govern the employees of different institutions. Section 69 of the Act, 1961 permits the Registrar to revise the order of a cooperative society, if there is any infirmity or illegality. However, there is no such case in the present petition.

10. In view of the above, this Court does not find any merit in the present petition.

11. Dismissed.

12. Pending application(s), if any, stand disposed of accordingly.

(NAMIT KUMAR)
JUDGE

10.04.2024
R.S.

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