IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4699 of 1999 (O&M)
Reserved on: 12.09.2024
Pronounced on: 18.09.2024

The Punjab State Cooperative Agricultural Service Societies Employees Union (Regd.), Ludhiana

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. H.S. Bedi, Advocate
for the petitioner.

Mr. Surya Kumar, AAG, Punjab.

NAMIT KUMAR J. (Oral)

1. The petitioner – Registered Employees Union of the Punjab State Cooperative Agricultural Service Society, has invoked the jurisdiction of this Court under Articles 226/227 of the Constitution of India, seeking a writ of mandamus, directing respondent No.2 – Registrar, Cooperative Societies, Punjab, to approve the revised pay scales w.e.f. 01.01.1996, as per recommendations of the 4th Pay Commission Punjab instead of 01.04.1998.

2. The brief facts, as have been pleaded in the present petition are that the petitioner is a registered Union of the employees working in the Primary Cooperative Agricultural Service Society in the State of Punjab. The Punjab Government under Section 85 of the Punjab

Cooperative Societies Act, 1961, framed the Punjab Cooperative Societies Rules, 1963. Rule 28 of these Rules empower the Registrar to prescribe the service conditions of the employees, working in the Cooperative Societies in Punjab. It has been stated that the managements of Primary Cooperative Agricultural Service Society are ready to pay revised pay scales w.e.f. 01.01.1996 but are not granting the same in view of decision taken by the Registrar, Cooperative Societies, Punjab, as the said pay scales have been made applicable w.e.f. 01.04.1998 and the bunching increment has also been denied whereas the report of 4th Punjab Pay Commission has been implemented by Punjab Government w.e.f. 01.01.1996 and the same authority has approved the revised pay scale w.e.f. 01.01.1996, for the employees of Punjab State Cooperative Banks and Central Cooperative Banks in the State of Punjab vide letter dated 09.07.1998 (Annexure P-2), for employees of MARKFED vide letter dated 16.01.1998 (Annexure P-3) and for employees of Punjab State Cooperative Development Federation Limited (PUNCOFED) vide letter dated 14.07.1998 (Annexure P-4). The petitioner submitted a representation dated 19.08.1998, on behalf of the employees union and prayed for issuance of clarification and implementation of the pay scales w.e.f. 01.01.1996 instead of 01.04.1998. However, the said request has not been accepted vide letter dated 08.09.1998.

3. The grievance raised in the present petition is that the employees of the Punjab State Cooperative Agricultural Service

Societies be granted the revised pay scale w.e.f. 01.01.1996 instead of 01.04.1998, as has been granted to the employees of Punjab State Cooperative Banks and Central Cooperative Banks in the State of Punjab, MARKFED and Punjab State Cooperative Development Federation Limited (PUNCOFED), as per the recommendations of the Fourth Pay Commission, Punjab.

4. On issuance of notice of motion, written statement on behalf of respondents No.1 and 2 has been filed, controverting the averments made in the present petition. It has been denied that the management(s) of Primary Cooperative Agricultural Service Societies are ready to pay the revised pay scales w.e.f. 01.01.1996 as none of the Primary Cooperative Agricultural Societies have passed any resolution to this effect. The economic condition of the Primary Cooperative Agricultural Service Societies is very weak and keeping in view the financial position of the Societies, it was decided to grant revised pay scale w.e.f. 01.04.1998 and for the said reason, the bunching increments were also disallowed. It has further been stated that out of 3519 Societies, 692 Societies are in loss and the margin of profit of other Societies is also not much that they can bear the financial burden of revised pay scales as they are only village level Cooperative Societies. The relevant portion from the written statement, reads as under:-

> *"4. Contents of para 4 are admitted to the extents that Respondent No. 2 has framed the Punjab State Cooperative Agricultural Service Societies, Service Rules, 1997 (hereinafter referred to as the Service Rules).*

According to these rules Primary Cooperative Agricultural Service Societies have been categorized as A, B and C on the basis of average loan outstanding against the members and deposit collectively. A copy of the annexure categorizing the society is attached as Annexure R-I to this written statement. It is wrong and denied that the management of the Primary Cooperative Agriculture Service Societies are ready to pay the revised scales of pay w.e.f. 1.1.1996 as none of the Primary Cooperative Agriculture Service Societies have passed any resolution to this effect. The economic condition of the Primary Cooperative Agriculture Service Societies is very week. Keeping in view the financial position of these societies, it was decided to give them the revised pay scales w.e.f. 1.4.1998. Similarly keeping in view the financial position of the societies, the bunching increments were also disallowed. It may be submitted here that out of 3519, 692 Primary Cooperative Societies are in loss. The margin of profit of other societies is also not much that they can bear the financial burden of revised pay scales as they are only village level Cooperative Societies. It is admitted that the pay fixation formula was kept the same as per the Punjab Government Notification No. 7/1/97-EPI/314 dated 16.1.1998.

5. Although para 5 is admitted that the Punjab Government had implemented the recommendations of the fourth pay commission with modifications. Never-the-less, it is not binding that the scale of employees of the society be revised without taking into the consideration the financial health of the society and thereby causing financial burden upon the member of the society who are the real owners of the society and have financial stakes in *the society by holding its share. It is pertinent to mention here that the report of the fourth pay Commission is relevant in the case of Government employees and does not create a right for the revision of pay scale of the employees of the society on the basis of the scale given to the employees of private organisation/cooperative Institutions.*

6. Contents of para 6 are wrong and denied. Every Cooperative Society registered under the Act, is a body corporate within the meaning of Section 30 of the Act. The Board of Directors of the Punjab State Cooperative Bank Ltd., Chandigarh is also of the Central Cooperative Bank in the State of Punjab had recommended for the revision of the pay scales of their employees and sent the same to the office of Respondent No. 2. Respondent No. 2 keeping in view their financial position had approved the same with modifications.

7. In reply to para 7 it is submitted that MARKFED is also a body corporate. The Board of Directors of the MARKFED may have given any pay scales in any case Respondent No.2 has not accorded any approval for the revision of the pay scales as claimed by the petitioner.

8. In reply to para 8, it is submitted that the Board of Directors of the PUNCOFED approved the revision of pay scales w.e. f. 1.1.1996 as it is also a separate legal entity. Respondent No. 2 has accorded the approval to the Resolution passed by the Board of Directors.

9. Contents of para 9 are wrong and denied. There is three tier system with regard to the Cooperative Societies. There are Cooperative Societies at the Village/Block Level which are known as Primary Societies. Then there are Societies at District Level which are known as secondary societies. Then there are Apex societies at the State level.

> *Every society is a body corporate with a separate entity. The societies keeping in view their financial position had revised the pay scales of their employees keeping in view the exigencies of the nature of duties being performed by their employees. Therefore, it is wrong and denied that the action of revising the pay scales of the employees of the Primary Cooperative Agriculture Service Societies is discriminatory in nature and is violative of Article 14 of the Constitution of India.*
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> *XXXX XXXX XXXX XXXX*
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> *12. In reply to para 12 it is submitted that the societies have been categorized into 3 categories as already submitted above. Therefore, the grades in all the three categories of societies cannot be uniform. However keeping in view the hardship of the employees of the Primary Cooperative Agriculture Service Societies and keeping in view their qualifications, their grade were revised by respondent No.2 by issuing the rules under Rule 28 of the Punjab Cooperative Societies Rules, 1963. The employees of these societies cannot be equated with Banks and Markfed, etc. with whom the petitioners are claiming parity. Therefore, there is no question of any discrimination."*

5. The only question which arises for consideration before this Court is as to whether the employees of Punjab State Cooperative Agricultural Service Societies, are entitled for revised pay scales w.e.f. 01.01.1996 instead of 01.04.1998, which is no more res integra.

6. Similar issue came up for hearing before the Hon'ble Supreme Court in ***"The State of Tripura and others vs Smt. Anjana***

Bhattacharjeet and others", **2022(4) SCT 115**, wherein the Hon'ble High Court of Tripura vide its judgment dated 24.08.2022, has struck down Rule 3(3) of Tripura State Civil Services (Revised Pension) Rules, 2009 and directed to pay the arrears of pension (Revised pension) from the date of her retirement to 31.12.2008. After examining various judgments of the Hon'ble Supreme Court, it was held as under:-

> *"5.3 Whether the financial crunch/financial constraint due to additional financial burden can be a valid ground to fix a cut-off date for the purpose of granting the actual benefit of revision of pension/pay has been dealt with and/or considered by this Court in the case of Amar Nath Goyal (supra). In the aforesaid decision, it is observed and held by this Court that financial constraint can be a valid ground for fixation of cut-off date for grant of benefit of increased quantum of death-cum-retirement gratuity. In paragraphs 26, 32 and 33 of the said judgment, it is observed and held as under:*
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> > *"26. It is difficult to accede to the argument on behalf of the employees that a decision of the Central Government/State Governments to limit the benefits only to employees, who retire or die on or after 1-4-1995, after calculating the financial implications thereon, was either irrational or arbitrary. Financial and economic implications are very relevant and germane for any policy decision touching the administration of the Government, at the Centre or at the State level.*
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> > *xxxx xxxx xxxx xxxx*

32. The importance of considering financial implications, while providing benefits for employees, has been noted by this Court in numerous judgments including the following two cases. In ***State of Rajasthan v. Amrit Lal Gandhi [(1997) 2 SCC 342 : 1997 SCC (L&S) 512 : AIR 1997 SC 782]*** *this Court went so as far as to note that:*

> *"Financial impact of making the Regulations retrospective can be the sole consideration while fixing a cutoff date. In our opinion, it cannot be said that this cutoff date was fixed arbitrarily or without any reason. The High Court was clearly in error in allowing the writ petitions and substituting the date of 1-1-1986 for 1-1-1990." [Ibid., at AIR p. 784, para 17 : SCC p. 348, para 17*
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> *(Emphasis supplied).]*

33. More recently, in ***Veerasamy [(1999) 3 SCC 414 : 1999 SCC (L&S) 717]*** *this Court observed that, financial constraints could be a valid ground for introducing a cutoff date while implementing a pension scheme on a revised basis [Supra in 2 SCC at p. 421 (para 15).] . In that case, the pension scheme applied differently to persons who had retired from service before 171986, and those who were in employment on the said date. It was held that they could not be treated alike as they did not belong to one class and they formed separate classes."*

5.4 In the aforesaid decision this Court after considering the earlier decisions of this Court in the cases of ***State of Punjab v. Boota Singh; (2000) 3 SCC***

> ***733*** *and* ***State of Punjab v. J.L. Gupta; (2000) 3 SCC 736****, it is specifically observed and held that for the grant of additional benefit, which had financial implications, the prescription of a specific future date for conferment of additional benefit, could not be considered arbitrary.*
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> *5.5 In the subsequent decision in Bihar Pensioners Samaj (supra), the decision in the case of Amar Nath Goyal (supra) is followed and it is observed and held that financial constraints could be a valid ground for introducing a cutoff date while introducing a pension scheme on revised basis. It is further observed and held by this Court in the aforesaid decision that fixing of a cutoff date for granting of benefits is well within the powers of the Government as long as the reasons therefor are not arbitrary and are based on some rational consideration.*
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> *6. While applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, we are of the opinion that in the instant case before us, the cutoff date has been fixed as 01.01.2009 on a very valid ground i.e., financial constraint. Therefore, the High Court manifestly erred in striking down the Rule 3(3) of the Pension Rules, 2009 being arbitrary and violative of Article 14 of the Constitution.*

7. Applying the law laid down by the Hon'ble Supreme Court in the aforesaid decision to the facts of the present case, the claim of the petitioner for grant of revised pay scale w.e.f. 01.01.1996 instead of 01.04.1998, cannot be accepted and the cut off date fixed by respondent No.2 is perfectly legal and valid and does not call for any interference by this Court as it is the policy decision taken by respondent No.2,

keeping in view the financial position of the Cooperative Agricultural Service Societies.

8. Further the plea of discrimination raised in the present petition that the employees of Punjab State Cooperative Banks and Central Cooperative Banks in the State of Punjab, employees of MARKFED and the employees of Punjab State Cooperative Development Federation Limited (PUNCOFED), have been granted the revised pay scales w.e.f. 01.01.1996, is also liable to be rejected as the said decision was taken by respondent No.2, keeping in view the financial position of above mentioned institutions.

9. In view of the foregoing reasons, finding no merit, the present petition is dismissed accordingly.

(NAMIT KUMAR)
JUDGE

18.09.2024
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Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No