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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-18741-2020

Date of decision: 16.05.2024

COOPERATIVE SUGAR MILL KARAMCHARI SANGH

...Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. R. K. Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate
for the petitioner.

Mr. R. S. Budhwar, Addl. A.G., Haryana.

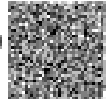
Mr. Deepak Balyan, Advocate and
Mr. Sushant Sharma, Advocate
for respondent No.3.

Mr. Amit Khatkar, Advocate
for respondent No.4.

JASGURPREET SINGH PURI, J. (Oral)

1. The present writ petition has been filed under Article 226 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondents to grant arrears of revision of pay scales w.e.f. 01.01.2016 to 31.07.2017 to the members of the Karamchari Sangh and all arrears be released with market rate of interest.

2. Mr. R. K. Malik, learned Senior Advocate assisted by Mr. Sandeep Dhull, learned counsel for the petitioner submitted that it is a case where the



State of Haryana had taken a policy decision vide Annexure P-2 on 29.09.2017 for the purpose of implementation of revised pay package as per recommendations of 7th Pay Commission (for all Co-operative Sugar Mills of Haryana). The aforesaid Annexure P-2 is reproduced as under:-

Department of Cooperation
(Govt. of Haryana)
New Secretariat Building Haryana, Sector-17
Chandigarh-160017

IMMEDIATE

From

*Additional Chief Secretary to Govt. Haryana,
Cooperation Department*

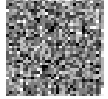
To

*The Registrar Cooperative Societies,
Haryana, Panchkula*

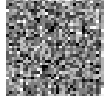
*Memo No. CMS 4656-C-5-2017/12971
Chandigarh, dated the 29.09.2017*

*Subject: Implementation of Revised Pay Package as per
Recommendations of 7th Pay Commissioner
(for All Co-operative Sugar Mills of Haryana).*

In pursuance of the decision taken in the meeting of the Haryana Bureau of Public Enterprises/ Standing Committee on Public Enterprises held on 23.08.2017 at 12:00 Noon under the Chairmanship of Chairman, Haryana Bureau of Public Enterprises and Standing Committee on Public Enterprises, sanction is hereby accorded for revision of pay scale of all Co-operative Sugar Mills of Haryana w.e.f. 01.01.2016 as per decision conveyed in U.O. No. 20/9/2017/ Acctt./ HBPE(FD), dated 14.09.2017 (copy enclosed) of Finance Department (HBPE) as follows:-



- i) *The revised pay structure will be on the pattern notified by the State Government vide notification No. 1/20/2016 (RP-5PR (FD), dated 28.10.2016. Accordingly, levels in the pay matrix corresponding to the existing sanctioned functional pay structure as on 31-12-2015 as at Annexure 'A' and 'B' were approved for all Co-operative Sugar Mills w.e.f. 1.1.2016.*
- ii) *The revised Assured Career Progression (ACP) pay structure for all Co-operative Sugar Mills will be on the pattern notified by the State Government vide Notification No. 1/20/2016 (ACP)-5PR(FD), dated 28.10.2016.*
- iii) *Fixation of pay w.e.f 1.1.2016 and other related matters will be in accordance with the provisions contained in Notification No. 1/20/2016 (RP)-5PR(FD), dated 28-10-2016 and Notification No.1/20/2016(ACP)-5PR(FD), dated 28-10-2016.*
- iv) *Dearness Allowance, House Rent Allowance, Medical Allowance and all other allowances admissible to the employees of all Co-operative Sugar Mills holding posts specified in Annexure 'A' will not exceed those admissible to the State Government employees as per instructions issued from time to time and should not be made effective/applicable from a date earlier than the date of such instructions.*
- v) *Only Dearness Allowance, House Rent Allowance, Medical Allowance and Retaining Allowance will be admissible to the employees of all Co-operative Sugar Mills holding posts specified in Annexure B. The allowances will not exceed those admissible to the State Government employees as per instructions issued from time to time and*



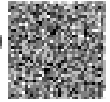
should not be made effective /applicable from a date earlier than the date of such instructions.

vi) In view of the heavy losses being incurred by the Sugar Mills, arrears on account of revision of pay scales up to 31-07-2017 should not be paid at this stage. All the Sugar Mills should make sincere efforts to reduce their losses. The arrears may be paid by individual Sugar Mills only if the losses for the year 2017-18 as per the audited accounts are less than 2016-17 and to the extent of reduction in the losses.

vii) The revision of wages of Daily Wage employees is being decided by the Finance Department separately. The same decision will be applicable to Daily Wage employees of all Co-operative Sugar Mills also.

*Sd/- Superintendent,
for Additional Chief Secretary to Government,
Haryana, Cooperation Department.*

3. While referring to the aforesaid decision of the State of Haryana, learned Senior Advocate submitted that sanction was accorded for revision of pay scale of all Co-operative Sugar Mills of Haryana w.e.f. 01.01.2016. He further submitted that there was one rider in the aforesaid decision which was so stated in Clause (vi) that in view of the heavy losses being incurred by the Sugar Mills, arrears on account of revision of pay scales upto 31.07.2017 should not be paid at this stage and all the Sugar Mills should make sincere efforts to reduce their losses. It was further provided that the arrears may be paid by individual Sugar Mills only if the losses for the year 2017-2018 as per the audited accounts are less than 2016-2017 and to the extent of reduction in



the losses. He further referred to Annexure P-3 to state that thereafter, on 30.03.2018, the Board of Directors of respondent No.4-Haryana Cooperative Sugar Mills Limited, Bhati Anandpur, Rohtak took a decision and passed a Resolution in which it was unanimously approved to grant the benefit of 7th Pay Commission to the Sugar Mills employees w.e.f 01.01.2016 along with arrears. The aforesaid Annexure P-3 dated 30.03.2018 is reproduced as under:-

***HARYANA COOPERATIVE SUGAR MILLS LIMITED,
BHATI ANANDPUR, ROHTAK***

No. H.M./8178

Dated: 30-3-2018

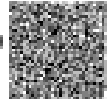
*Managing Director,
Haryana State Cooperative Sugar Mills Federation Ltd.,
Panchkula*

*Subject: Decision taken by Board of Directors in
compliance of 7th Pay Commission granted to
the employees of the Mills-Reg.*

R/Sir,

*Under above subject it is informed that the
abovesaid matter was placed before the Board of Directors
meeting dated 21.03.2018 for approval. The elected present
members of Board of Directors has unanimously approved to
grant the benefit of 7th Pay Commission to the Sugar Mills
employees w.e.f. 1.1.2016 alongwith arrear in
reference to your office letter no.SMF.2017/Estt/5340-49
dated 12.10.2017.*

*Apart from this, the Managing Director has
given letter no.SMF.2017/Estt./5340-49 dated 12.10.2017
provided to mills employees as per instructions given by
compliance of 7th Pay Commission made after approval.*



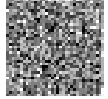
Regarding the above, you are requested to provide guidance in the matter.

Thanking you

*Sd/-
Managing Director*

4. Learned Senior Counsel appearing on behalf of the petitioner submitted that once a policy decision has been taken by the State of Haryana with respect to all the Sugar Mills and with regard to the present Sugar Mill i.e Haryana Cooperative Sugar Mills Limited, Bhati Anandpur, Rohtak, the Chief Executive Body which is the Board of Directors have already approved the grant of the aforesaid benefit and has also so specifically decided unanimously that the aforesaid benefit will be granted along with arrears, then there was no ground for the denial of the aforesaid benefit to the employees because once a decision has been taken by the Chief Executive Body, which vests in the Board of Directors, then in the absence of any rescinding of the Resolution, the same has to be implemented because the benefit has to go to the employees of the Sugar Mills and there is no justification coming forth as to why despite decision of the Board of Directors, the same has not been given to the employees of the Sugar Mill and therefore, a direction may be issued to grant the arrears in terms of Annexure P-2 and Annexure P-3.

5. On the other hand, Mr. Deepak Balyan, learned counsel appearing on behalf of the respondent No.3-SUGARFED submitted that as per the aforesaid decision of the Government of Haryana, although the same was the policy decision to grant the financial benefit but since the Sugar Mills of the State of Haryana are suffering heavy losses which are running into crores, the



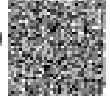
same cannot be granted to the petitioner-Karamchari Sangh. He further submitted that the present writ petition was not maintainable on behalf of the Karamchari Sangh because had any employee being aggrieved by the action of the respondents, then an employee could have filed the writ petition individually but not through a Sangh or a Union.

6. Mr. Amit Khatkar, learned counsel appearing on behalf of respondent No.4 submitted that he adopts the submissions of the learned counsel appearing on behalf of respondent No.3-SUGARFED.

7. Mr. R. S. Budhwar, Addl. A.G., Haryana while referring to the reply filed by the State submitted that the State has no role to play in the present case.

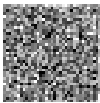
8. I have heard the learned counsels for the parties.

9. The only issue involved in the present case is that once the State of Government has taken a policy decision and directed the various Sugar Mills of the State of Haryana for implementation of revised pay package as per the recommendations of the 7th Pay Commission and thereafter, when one of the Sugar Mills i.e. respondent No.4-Haryana Cooperative Sugar Mills Limited, Bhati Anandpur, Rohtak has passed a Resolution through its Board of Directors, then whether the same can be directed to be implemented by this Court or not. Before proceeding further, the objection taken by learned counsel for respondent No.3 with regard to the maintainability of the writ petition has to be considered first. The petitioner is a Cooperative Sugar Mill Karamchari Sangh (Regd.), Rohtak and the aforesaid Union/Sangh is a registered Society as so stated by the petitioner in para No.1 of the petition. Therefore, a Society in a



representative capacity can always invoke the jurisdiction of this Court under Article 226 of the Constitution of India. It is not necessary that each and every employee should come to this Court individually for the purpose of enforcement of their legal right pertaining to the decision already taken not only the State of Haryana but by the Sugar Mill itself and therefore, the objection taken by the learned counsel for respondent No.3-SUGARFED is not sustainable.

10. On merits, this Court is of the view that once the State of Haryana has taken a conscious decision vide Annexure P-2 on 29.09.2017 and thereafter, the same has been adopted and approved unanimously by the Sugar Mill i.e respondent No.4-Haryana Cooperative Sugar Mills Limited, Bhati Anandpur, Rohtak vide its Board of Directors and the same is already in force and as per the learned counsel for the parties, the same has not been rescinded as yet, then mere fact that the SUGARFED, which is the Apex Body has taken an objection that the Sugar Mills of the State of Haryana are running into losses, the same cannot become a ground for denial to the petitioner. The aforesaid is also clear from a perusal of Annexure P-3 which would show that a conscious decision has been taken that the implementation of the 7th Pay Commission should be done w.e.f 01.01.2016 along with arrears and since the subject matter of the present writ petition pertains only to one Sugar Mill i.e. Haryana Cooperative Sugar Mills Limited, Bhati Anandpur, Rohtak and this Sugar Mill has already taken a decision with regard to arrears, then now in the reply, respondent No.3-SUGARFED cannot turn around and say that since all the Sugar Mills of the State of Haryana are running into losses in general, then Haryana Cooperative



Sugar Mills Limited, Bhati Anandpur, Rohtak should also not give the arrears. The submissions made by the learned counsel for respondent No.3-SUGARFED are not sustainable.

11. In view of the aforesaid facts and circumstances, the present writ petition is allowed. A direction is issued to the respondent No.4-Haryana Cooperative Sugar Mills Limited, Bhati Anandpur, Rohtak to calculate and grant the arrears to the employees in terms of Annexure P-2 and Annexure P-3, within a period of six months from today.

16.05.2024
Chetan Thakur

(JASGURPREET SINGH PURI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No