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

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Date of decision: 10.01.2025

R.K. CHUGH AND OTHERS

...PETITIONERS

Vs.

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. R.N. Lohan, Advocate and
Ms. Manisha Rani, Advocates
for the petitioners.

Mr. P.C. Goyal, Addl. A.G., Haryana.

Mr. R.D. Bawa, Advocate,
Mr. Samuel Gill, Advocate and
Mr. Alrandhir Bawa, Advocate
for respondent No. 2.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioners through instant petition under Articles 226/227 of the Constitution of India are seeking setting aside of orders dated 28.06.2007 and 06.01.2009 (Annexures P-4 and P-5) passed by respondent No. 1 and orders dated 31.07.2009 (Annexure P-6) and 15.04.2010 (Annexure P-7) passed by respondent No. 2 whereby respondents have restored them to pay scale as payable on 01.04.2006.

2. The petitioners prior to 01.04.2006 were holding post of Manager or above with respondent-Haryana Dairy Development Co-operative Federation, Panchkula (for short 'Federation'). The Board of Directors of the Federation in its 139th meeting held on 04.08.2005 decided to approve revised organizational structure as well as pay scale. In view of revised organizational structure and

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pay scale, the petitioners became entitled to higher salary. The aforesaid resolution came up for consideration before State Government which vide communication dated 06.03.2006 (Annexure P-1) intimated that Co-operative Societies are not Public Enterprises or Government Undertakings, thus, Registrar of Societies is Competent Authority to approve the revised pay structure. The relevant extracts of letter dated 06.03.2006 are reproduced as below:-

“The proposal sent by you has been examined and it has been found that you are competent authority under section 37 of the Haryana Cooperative Societies Act, 1984 to make rules to regulate recruitment and conditions of service of such employees under the common cadre. The Board of Directors of HDDECF has already passed the necessary resolution for necessary organizational charts with revised qualifications and mode of recruitment in respect of Federation's employees and common cadre employees.

2. The RCS, Haryana is competent authority in this regard. It has already been clarified that the Cooperative societies are not public Enterprises or Government undertakings under this office letter no.5603-C-2-2005/15474 dated 19.12.2005.”

3. The matter came up for consideration before Registrar Co-operative Societies, Haryana, Panchkula who vide memo dated 27.03.2006 (Annexure P-1) approved resolution of Board of Directors. The relevant extracts of memo dated 27.03.2006 are reproduced as below:-

“Subject: Organizational charts with revised qualifications and mode of recruitment in respect of Federation's employees common cadre employees.

The proposal sent by you has been examined and it has been found that it is necessary to make certain amendment in the proposal. The amended version showing the posts and numbers,



qualifications and mode of recruitment in respect of Federation's employees and common cadre employees is approved under section 37 of the Haryana Co- operative Societies Act, 1984. You may now further necessary action at your end."

4. The respondent-Federation vide memo dated 04.04.2006 (Annexure P-3) implemented revised structure consequent to approval of Registrar of Societies.
5. The Government vide memo dated 28.06.2007 (Annexure P-4) intimated Managing Director of the Federation to keep implementation of revised pay scale in abeyance till the matter is finalized by the Government.
6. The Government vide communication dated 06.01.2009 (Annexure P-5) intimated the Registrar, Co-operative Societies to implement revised pay structure *qua* all the employees except officers holding position of Manager and above. The Managing Director of the Federation vide order dated 31.07.2009 (Annexure P-6) decided to restore the position as on 01.04.2006 *qua* Manager and above officers with respect to revised organizational structure. Meaning thereby, Managing Director in terms of direction of the Government decided not to extend benefit of revised pay structure to officers holding rank of Manager and above.
7. The respondent-Federation vide order dated 15.04.2010 (Annexure P-7) ordered to reduce pay scale of officers holding rank of Manager and above and ordered for recovery of already paid amount.
8. The respondent-Federation in its meeting dated 30.11.2011 decided to drop the agenda with respect to approval of higher pay scales.
9. Mr. R.N. Lohan, Advocate submits that as per Section 37 of the Haryana Co-operative Societies Act, 1984, the Competent Authority to approve



cadre and pay structure is Registrar and the Government has no role to play. The Board of Director withdrew earlier proposal under the pressure of State Government. In any case, the respondents have no right to recover amount already paid which was outcome of a conscious decision duly approved by the Registrar of Societies.

10. Per contra, Mr. R.D. Bawa, Advocate submits that resolution of Board of Directors was although approved by Registrar, yet it was ordered to be kept in abeyance by the State Government. Under the compelled circumstances, the Management decided to withdraw the said agenda *qua* officers holding rank of Manager and above. As resolution of revised pay structure was withdrawn, thus, petitioners were liable to pay differential amount.

11. I have heard the arguments of both sides and with the able assistance of learned counsel perused the record.

12. From the perusal of record, it is evident that Board of Directors in its meeting took a conscious decision to revise pay structure of all the employees. A revised organizational chart was prepared. The said revised pay structure was forwarded to the Government which specifically formed an opinion that approval has to be granted by the Registrar of Societies. The matter was put up before the Registrar who approved the resolution. The respondent-Federation implemented the resolution, however, the State Government, at this stage, intervened and asked the management to keep the matter in abeyance *qua* officers holding rank of Manager and above. On account of intervention of the State Government, the management decided to withdraw the revised pay structure *qua* officers holding rank of Manager and above.

13. The power to pass resolution including changed organizational structure includes power to withdraw. If Board of Director decides to change



organizational structure or revise pay scale, it does not mean that it is perpetual and cannot be withdrawn.

14. In the case in hand, the Board of Directors has withdrawn the resolution, though, on account of intervention of the State Government. This Court does not find it appropriate to set-aside decision of Board of Director to recall its earlier decision to revise organizational structure and pay scale. The petitioners could not claim higher pay scale as soon as decision to defer the implementation of revised pay scale was taken.

15. The respondent after getting approval from the Registrar implemented revised pay structure and salary was released as per revised pay structure. There was no procedural or legal infirmity in the decision of Board of Directors and approval of the Registrar which is evident from implementation of Board resolution *qua* other employees. Every act of respondent-Federation was as per procedure prescribed by law. There was no connivance, ill will or malafide on the part of petitioners. The decision was taken by Board of Director which included Managing Director who was an IAS officer.

16. In the above backdrop, it would be unjust and unfair, if respondent recovers any amount which was paid as per revised pay structure.

17. In the wake of aforesaid facts and findings, this Court is of the considered opinion that decision of Board of Directors to withdraw revised pay structure is legal and cannot be set-aside, however, the respondent cannot recover any amount which has already been paid on account of implementation of revised pay structure.

18. Disposed of in above terms.



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19. Pending miscellaneous application(s), if any, shall also stand disposed of.

10.01.2025
manoj

[JAGMOHAN BANSAL]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/Nos