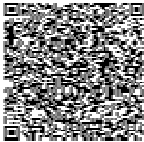


227 (10 cases)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

2025:PHHC:005784-DB



(1) LPA-146-2020 (O&M)

JAGRAON COOPERATIVE SUGAR MILLS LTD. ...Appellant

V/S

GURJANT SINGH AND OTHERS ...Respondents

(2) LPA-189-2020 (O&M)

THE FARIDKOT COOPERATIVE SUGAR MILLS LTD ...Appellant

V/S

HARJINDER SINGH AND OTHERS ...Respondents

(3) LPA-251-2020 (O&M)

FARIDKOT COOPERATIVE SUGAR MILLS LTD ...Appellant

V/S

GURMEET SINGH AND ORS ...Respondents

(4) LPA-252-2020 (O&M)

THE FARIDKOT COOPERATIVE SUGAR MILLS LTD ...Appellant

V/S

MOHINDER SINGH OTHI AND ORS ...Respondents

(5) LPA-253-2020 (O&M)

PATIALA COOPERATIVE SUGAR MILLS LTD. ...Appellant

V/S

JAGJIT SINGH AND ORS ...Respondents

(6) LPA-322-2020 (O&M)

FARIDKOT COOPERATIVE SUGAR MILLS LTD. ...Appellant

V/S

JASPREET SINGH AND ORS ...Respondents

(7) LPA-953-2021

THE ZIRA COOPERATIVE SUGAR MILLS LTD ...Appellant

V/S

BAKSHISH SINGH AND ORS ...Respondents

(8) LPA-271-2020

THE FARIDKOT COOPERATIVE SUGAR MILLS LTD. ...Appellant

V/S

SUKHBIR SINGH MANN AND ORS ...Respondents

(9) LPA-1001-2021 (O&M)

THE TARN TARAN COOPERATIVE SUGAR MILLS LTD ...Appellant

V/S

SUKHWINDER SINGH AND ORS ...Respondents

(10) LPA-364-2020 (O&M)

THE TARN TARAN COOPERATIVE SUGAR MILLS LTD ...Appellant

V/S

INDERJIT SINGH AND ORS ...Respondents

Date of Decision: 15.01.2025

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present Mr. Vikas Singh, Advocate and
Mr. Rahul Sharma, Advocate for the appellant(s).

Ms. Arundhati Kulshreshtha, AAG, Punjab.

Mr. H.S. Saggu, Advocate for respondents No.1 to 3 (in LPA No.146 of 2020 and for respondents No.1 to 10, 13 to 17, 20, 21, 23, 27 to 31, 33, 35 and 36 in LPA No.251 of 2020) and for respondents No.1, 5 to 9, and 13 (in LPA No.322 of 2020).

Mr. K.S. Boparai, Advocate and Ms. Archana Vashisht, Advocate for respondent Nos. 1 to 7, 9 to 11, 13, 14, 16 to 18, 21 to 31, 33 to 37, 39 to 41, 44 (in LPA No.189 of 2020) and for respondent Nos.1, 3 to 9, 11, 14 to 18, 20 to 29 and 35 (in LPA Nos, 252, 253, 271 and 1001 of 2020).

SANJEEV PRAKASH SHARMA, J.(Oral)

CM-513-LPA-2020

For the reasons mentioned in the application, the same is allowed and delay of 9 days in refiling the present appeal is condoned.

MAIN APPEALS

1. The appellants have assailed the order passed by the learned Single Bench dated 16.10.2019, whereby the learned Single Bench decided the bunch of the writ petitions and held the writ petitioners to be entitled for 50% of the dearness allowance on the last basic pay drawn by them in terms of the definition of salary as contained in the VRS scheme. The learned Single Bench also held that the judgment in **B.S. Baidwan and others vs. Punjab State Federation of Cooperative Sugar Mills Ltd. and others CWP-16035-2010**, would apply and the respondents would pay 50% of the dearness allowance on the last drawn basic pay to those employees who opted for VRS and grant them benefit of the definition of term salary. Interest @ 6% per annum w.e.f. the date of entitlement till the actual date of disbursement was also directed.

2. Learned counsel for the appellants have submitted that the order of adding 50% dearness allowance to the existing salary to make it the dearness pay (DP) was issued by the Punjab State Federation of Cooperative

Sugar Mills vide order dated 10.02.2009. The same was not applicable to the sugar mills which were already lying closed and were under liquidation and it was left for the Registrar, Cooperative Societies to take a decision with regard to such closed sugar mills as to whether 50% dearness allowance was to be added. It was also directed that such benefit of adding of 50% of dearness allowance on the basic salary would be from the current year namely 2007-2008. The decision of the Punjab State Federation of Cooperative Sugar Mills was approved by the Registrar, Cooperative Societies on 30.01.2009, making it applicable w.e.f. 01.02.2009.

3. Learned counsel submits that the learned Single Judge has erred in directing the said decision to be applicable to the employees of the closed sugar mills as the order of adding 50% dearness allowance to the basic salary was only exclusive to the running sugar mills and not to the closed mills. It is submitted that for the closed sugar mills namely Zira, Jagraon, Patiala, Faridkot and Tarn Taran, voluntary retirement scheme was floated by the Government of Punjab on 28.04.2011, after the approval from the Council of Ministers. As per the said VRS scheme, the employees of the closed sugar mills were entitled to the benefits treating the salary to mean basic pay plus appropriate percentage variable dearness allowance, which was to be calculated on the basis of last salary drawn.

Learned counsel submits that the ex-gratia was accordingly to be calculated and paid. It was also pointed out that in case the employees who offered VRS, do not opt or withdraw the option given, would be granted retrenchment benefits as per the relevant rules. They therefore, submit that the salary as mentioned in the VRS scheme could not be basic pay as last drawn salary plus 50% dearness allowance.

4. We directed the learned counsel for the appellants to place before us the original record of payment of salary and fixation of salary as it was submitted that the variable dearness allowance to the extent of 176.99% was added to the basic salary drawn at the time of closing of the mills i.e. last drawn salary by the concerned employee.

5. We have perused the original register, wherein, the calculation has been made and are satisfied that in each case of employee the dearness allowance has been calculated in aforesaid terms and added to the basic pay which the employees were drawing at the time of closure of the sugar mills. Calculating it to be the salary, the ex-gratia amount has been calculated and released.

6. Learned counsel appearing for the employees, however, submits that 50% dearness allowance should have been added to the salary in terms of the decision taken by the Punjab State Federation of Cooperative Sugar Mills which had to be applied to all the employees. Since the sugar mills had not released the amount prior to the said decision, the employees would be entitled to receive the said benefit and after adding that 50% dearness allowance as on the last date of closure of the sugar mills, if the calculations are done, employees would be more benefited. Further no distinction can be drawn between the employees who are working in the sugar mills which were functioning on the date when the decision was taken i.e. in the year 2009 and the employees who were working with the sugar mills which were closed. So far as the salary part is concerned, the employees of the sugar mills had also not received the same.

7. We have considered the submissions.

8. We find that the decision taken for grant of adding 50% dearness allowance to the basic pay, comes to an amount known as dearness pay, was

taken only on 10.02.2009 with respect to running sugar mills and the Registrar, Cooperative Societies had accepted the same and brought it into force from 01.02.2009. As on 01.02.2009, the Jagraon and other sugar mills for which VRS scheme had been floated, stood already closed. In fact it has been informed that the sugar mills stood closed in the year 2005 and brought under liquidation in November, 2005 and thus the claim of the writ petitioners cannot be on parity with the employees of the running sugar mills. Learned Single Judge has thus erred in applying the decision dated 10.02.2009 to the employees of the closed mills.

9. The definition of salary as defined under the VRS scheme, read as under:-

“Salary means basic pay plus appropriate percentage of VDA (variable dearness allowance) and it shall be calculated on the basis of the last salary drawn.”

The salary, would, therefore, have to be calculated as the basic pay which the employee was drawing lastly when the sugar mill was in operation, where after the variable dearness allowance would be added accordingly. The variable dearness allowance which comes to 176.99% has been added to the basic salary and the amount has been calculated accordingly.

10. We do not find any error in such calculation. More so, if the VRS could not have been accepted, the concerned employee would have only been entitled to compensation in terms of Section 25-F of the Industrial Disputes Act, 1947, which too would have to be calculated as on the last day of working i.e. in the year 2005. He, would, therefore, get compensation also accordingly and the salary would have to be computed on the basis of what

he would have been getting in 2005. The benefit has, thus, been given to the maximum.

11. In view of the abovem the order passed by the learned Single Judge would be nothing else but further complicate the issue without giving any further additional advantage to the employees apart from being unsustainable in law.

12. We, therefore, do not intend to confirm the order passed by the learned Single Bench and accordingly we set aside the order dated 16.10.2019, passed by the learned Single bench. The appeals are accordingly allowed.

13. All pending misc. application(s) also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

15.01.2025
rajesh

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No