

(2012) 11 KL CK 0106

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 34676 of 2010 (H)

All Kerala Textile Workers and Staff Federation and K.
Bahuleyan, Unskilled Worker

APPELLANT

Vs

State of Kerala and Managing Director, Kerala State
Handloom Weavers Co-Operative Society Ltd.

RESPONDENT

Date of Decision : 16-11-2012

Acts Referred:

Citation : (2012) 11 KL CK 0106

Hon'ble Judges : Harun-UI-Rashid, J

Bench : Single Bench

Advocate : K.S. Madhusoodanan, Sri. T.V. Jayakumar Namboodiri, Sri. Thushar Nirmal sarathy, Sri. M.M. Vinod Kumar and Sri. P.K. Rakesh kumar, for the Appellant; Noushad Thottathil, Government Pleader for R1 and Sri. T.M. Raman Kartha, R2 SC, Hantex, for the Respondent

Judgement

Justice Harun-UI-Rashid

1. Writ Petition No. 34676/2010 is filed seeking the following reliefs:

- i) Call for the records connecting Exts. P1 to P5 from the respondents concerned;
- ii) Call for Ext. P3 from 2nd respondent and set aside the decision to recommend DA benefit under Ext. P2 limited from 1/3/10 onwards;
- iii) Call for Exts. P5 from 1st respondent and issue a writ of certiorari to quash the same; and
- iv) Issue a writ of mandamus directing the 2nd respondent to disburse DA under Ext. P2 with effect from 1/7/2007 to the employees of Hantex referred to in Ex. P1 list;

The grievance of the petitioners is that by virtue of Rule 189(3) of the Kerala Co-operative Societies Rules, the employees of Hantex are entitled to dearness allowance at the rates allowed by the Government to the Government

employees. The increased dearness allowance granted by Ext. P2 Government Order dated 18/11/2009 to State Government employees, Aided school Teachers and other categories of employees referred to therein with effect from 1/7/2009 has not been implemented in the Hantex. It is submitted by the petitioners that the 2nd respondent had recommended grant of enhanced dearness allowance pursuant to Ext. P2 order and also requested the Government to sanction increased dearness allowance to employees of the Hantex with effect from 1/3/20210. The said request was declined by the Government by Ext. P5 letter dated 21/10/2010. In this writ petition the petitioners challenge Ext. P5 order and seek the reliefs referred above.

2. This Court by interim order dated 12/1/2011 directed the 2nd respondent to disburse the increased dearness allowance sanctioned by the Government to the Government employees by Ext. P2 Government Order to all employees of Hantex who are governed by Rule 189(3) of the Rules with effect from 1/3/2010 onwards.

3. The increased DA with effect from 1/7/2009 to 28/2/2010 remains to be paid. The learned counsel for the 2nd respondent submits that the increased dearness allowance due to the petitioners for the said period will be paid within a period of nine months.

Taking into consideration the submission made by the 2nd respondent, the W.P. (C). No. 34676/2010 is disposed of directing the 2nd respondent to disburse the increased DA for the period from 1/7/2009 to 28/2/2010 to the petitioners within a period of six months from the date of receipt of a copy of this judgment.

4. W.P. (C). No. 7993/2011 is filed seeking the very same reliefs. The 1st petitioner in the writ petition is the same petitioner in W.P. (C). No. 34676/2010. This Court by interim order dated 15th March, 2011 following the interim order passed in W.P. (C). No. 34676/2010 referred in the preceding paragraphs directed the 3rd respondent to pay to the members of the petitioner Federation including the 2nd petitioner, arrears of dearness allowance on the terms of Ext. P2 order for the period commencing from 1/1/2010 and ending with 30/6/2010 and arrears of dearness allowance calculated in terms of Ext. P3 order from 1/7/2010 till date and to continue to pay the same pending disposal of the writ petition.

5. It is submitted that the said direction has been complied with. Learned counsel for the petitioners submits that the arrears of DA for the period from 1/7/2000 to 30/6/2009 remains to be paid. Learned counsel for the 3rd respondent submits that the increased DA due to the petitioners for the said period will be paid within a period of nine months from the date of receipt of a copy of this judgment.

Taking into consideration the submission made by the 3rd respondent, W.P. (C). No. 7993/2011 is disposed of directing the 3rd respondent to disburse the increased DA for the period from 1/7/2000 to 30/6/3009 within a period of six months from the date of receipt of a copy of this judgment.

6. W.P. (C). No. 37070/2010 is also filed seeking the very same relief against the respondents. This Court passed interim order dated 30/6/2011 directing the 3rd respondent to make payment of dearness allowance in terms of the interim order passed in the other two writ petitions. If any balance amount is due to the members of the petitioners Union for any period for which they are entitled to, the 3rd respondent is liable to pay the said amount. Learned counsel for the petitioner submits that the arrears of DA for the period from 1/7/2000 to 30/6/2009 remains to be paid. Learned counsel for the 3rd respondent submits that the increased DA due to the petitioners for the said period will be paid within a period of nine months from the date of receipt of a copy of this judgment.

Taking into consideration the submission made by the 3rd respondent, W.P. (C). No. 37070/2010 is disposed of directing the 3rd respondent to disburse the increased DA for the period from 1/7/2000 to 30/6/2009 within a period of six months from the date of receipt of a copy of this judgment.