
(2010) 11 P&H CK 0127
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 19433 of 2010 (O and M)

Balwan Singh and Others

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 10-11-2010

Acts Referred:

Citation : (2010) 11 P&H CK 0127

Hon'ble Judges : Ritu Bahri, J;M.M. Kumar, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—The Petitioners who have been working on the various posts like Senior Accountant, Junior Accountant, Clerk, Peon

etc. in the Panipat Central Cooperative Bank Ltd. have approached this Court with a prayer to quash a part of the order dated 24.8.2009 (P.4)

issued by the Registrar, Cooperative Societies, Haryana. The impugned part of the order states that the new pay scales be given to the employees

w.e.f. 1.1.2006 but no arrears would be admissible to them. In other words, the Petitioners have been held entitled to the revised pay scales with

the benefit of notional fixation of pay but the arrears before the issuance of notification dated 24.8.2009 (P.4) are not payable. The aforesaid

provision which is subject matter of challenge reads as under:

It is directed that new pay scales be given w.e.f. 1.1.2006, and no arrears shall be paid keeping in view the fragile financial positions of these

banks. The Banks shall meet the additional expenditure by mobilizing additional resources at their own level.

2. Mr. R.K. Malik, learned Counsel for the Petitioner has argued that financial

stringency is no ground to deny the arrears and in that regard he has placed reliance on the observations made by Hon''ble the Supreme Court in the case of Haryana State Minor Irrigation Tubewell Corporation and Ors. v. G.S. Uppal and Ors. (CA No. 9244, 9239 and 9248 of 2003 decided on 16.4.2008 (P.5).

3. Having heard the learned counsel we are of the view that no fault can be found with the impugned provision as it cannot be concluded that

financial stringency faced by the respondents lack relationship with the object of the rule. The order has been issued on 24.8.2009 (P.4) and

benefit of notional fixation of pay has been given w.e.f. 1.1.2006 without payment of any arrears. The aforesaid decision to refuse payment of

arrears appears to be based on the opinion expressed by the experts in respect of the financial health of the cooperative societies in general. In the

present case, the revised pay scales has been released on 24.8.2009 (P.4) with a stipulation that they would be given the benefit of pay fixation

without payment of arrears. The financial constraints and financial stringency can constitute basis for denying payment of arrears. Restricting the

relief of pay revision to notional fixation from the date of notification. The question whether financial constraints could be a valid ground for creating

a classification has been answered in the affirmative by a Constitution Bench of Hon''ble the Supreme Court in the case of Confederation of Ex-

Servicemen Associations and Ors. v. Union of India and Ors. (2006) 8 SCC 399. In that case the Ex-servicemen Association had requested for

grant of full and free medical facility. According to the Scheme framed by the Union of India in respect of ex-servicemen for grant of medical

facility a stipulation is made that they will have to make one time contribution. Their Lordship of Hon''ble the Supreme Court emphasized that if a

policy decision is taken by taking into account financial constraints and limited means available by requiring the ex-servicemen to make one time

payment, then it cannot be said that such action would violate the fundamental rights or result in discrimination vis.a.vis the in-service defence

personnel. Therefore, it cannot be argued that employees working in Central Cooperative Banks are being subjected to any discrimination in the

matter of granting revised pay scale merely because arrears arising therefrom are not being paid.

4. The judgment of Hon''ble the Supreme Court on which reliance has been placed by the learned Counsel does not advance the case of the

Petitioners because there the employer has refused to grant revision of pay scale whereas the revision of pay scale was ordered in other cases. The

argument of financial stringency was not accepted by their Lordships of Hon''ble the Supreme Court. Whereas in the present case, the Petitioners

have been given the revision of pay scales with notional benefit of fixation of their pay but without the benefit of arrears w.e.f. 1.1.2006. These are

two entirely different things and thus the aforesaid judgment has no application to the facts of the present case.

5. As a sequel to the above discussion, the writ petition fails. The constitutional validity of the provision denying arrears on the basis of revision of

pay scales is upheld.