

(2009) 09 P&H CK 0003
In the Punjab And Haryana At Chandigarh

Central Tool Room

APPELLANT

Vs

Presiding Officer, Industrial Tribunal and Another

RESPONDENT

Date of Decision : 08-09-2009

Acts Referred:

Citation : (2009) 156 PLR 586

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Judgement

K. Kannan, J.—There is no representation for the petitioner and I find that even on last several hearings, there had been no representation. The name of the counsel for the petitioner Mr. Rajnish Sharma, Advocate, has also been printed in the cause list, but there is no appearance. I have examined the records with the able assistance of the learned Counsel for the respondent and I have proceed to pass this order.

2. The dispute that was referred before the Labour Court was raised at the instance of the workman in the category of Stenotypists/Stenographers working in the establishment of Central Tool Room, Ludhiana, a Society registered under the Societies Registration Act. Their claim was for upgradation of posts and higher scales of pay as applicable to the upgraded posts in terms of the recommendations of the 4th Pay Commission of the Central Government. A demand had been raised through notice on 24.02.1995 and when it was not acceded to, the reference had been made. The basis of the claim of the workman was a decision taken by the governing counsel of the management-Society on 19.09.1979 in agenda Item No. 3 to follow the same as are applicable to the Central Government employees till it framed its own rules and regulations. No rules had been framed yet. In view of the decision that the scales of pay were allowed to the Central Government employees in implementation of the recommendation of the 4th Pay Commission, they were also adopted by the CTR under office order dated 09.05.1987.

3. Before the Labour Court, a preliminary objection that had been taken was that

the order of reference itself was bad and since the management was in the hands of the Central Government, the appropriate Government was the Central Government and the reference could have been made only by the Central Government to the Central Industrial Tribunal. The Punjab Government, according to the management, did not have authority to make a reference before the Labour Court constituted by it. An order was passed by the Labour Court on 12.09.1997 rejecting the objection made on behalf of the management and upholding the reference. In so doing, the Labour Court referred to the fact that the respondent-management had been established as a Society under the Societies Registration Act and although there had been some central funding through grants, it functioned as an autonomous body and the Central Government did not have substantial control in its financial matters. The location of the industry, it was, that obtained primacy of consideration and the reference made by the State Government, was justified. The Labour Court also relied on a decision of the Hon'ble Supreme Court in *Heavy Engineering Mazdoor Union v. State of Bihar* 1969 L.L.J. 2549, and several other decisions of the High Courts to hold that if the Corporation was not carried on directly by the Central Government or any of its department, the powers of such a Corporation would emanate from the Memorandum of Articles of Association and not from the Central Government as its agent. The attempt was, therefore, to show that the Society, which had its own governing council, owed its origin to the statute under which it was registered and it could not be taken to be a Central Government undertaking to require the Central Government as the appropriate Government to make a reference. Yet another decision was relied on by the learned Counsel for the workman in *Central State Farm v. Balbir Singh and Anr.* 2001(3) R.S.J. 429, in relation to the management that had been established under Societies Registration Act, where this Court held on a consideration of all legal precedents that the appropriate Government would be the State Government where the industry was situated. I, therefore, find that the adjudication rendered by the Labour Court that the State Government had a power to make a reference was perfectly justified.

4. As regards the merits of the award itself, the learned Counsel appearing for the workmen's Union pointed out that the revised entitlement of officers for stenography assistants in subordinate offices as issued by the Government of India, Department of Personnel & Training, dated 06.02.1989 provided for upgradation of Stenographers and the entitlement of the officers in various scales of pay in the range of pay scales 3000-5900. This had been issued in the light of the recommendations made by the 4th Central Pay Commission. The Deputy Director of the office of the Development Commissioner (Small Scale Industries) had also issued proceedings dated 18.08.1992 where on the subject of upgradation of pay scales of Stenographers, the case was reported to have been referred to the Integrated Finance Wing, but they had reported that they were not applicable to the employees of autonomous body. This communication was considered by the Labour Court stating that these instructions would not

apply in a case where the decision had been taken by the governing council on 19.09.1979 and the instructions would, therefore, have to be suborned to the decision already taken to apply the same. Before this Court, the petitioner has also sought to file the guidelines for improving the promotion prospectus of Stenographers in the non-secretariat/subordinate offices that restricted the application of the 4th Pay Commission's recommendations to the Stenographers and the upgradation of the posts. The learned Counsel appearing for the Union would state that these were only in the nature of guidelines and there was no statutory force. It was perfectly possible for a governing council to take a decision independently of these guidelines and even these guidelines had not been filed before the Labour Court to provide sustenance to their own defence. I am of the view that these guidelines themselves cannot prevail over the decision that had already been taken, approving of the recommendations of the Pay Commission for their implementation for Stenographers.

5. The award of the Labour Court, under the circumstances, is justified and it would require no interference and the writ petition is, accordingly, dismissed. In the award of the Industrial Tribunal, Punjab, the benefit of upgradation and approved scales of pay of such upgraded posts was directed to be effective from 01.07.1992 and it was also directed that the amounts shall be paid within three months after the publication of the award. It is submitted by the counsel for the worker's Union that the award had been stayed by this Court at the time when the writ petition was admitted. In view of the affirmation of the award, I direct the amounts as calculated and found payable, shall bear 6% interest per annum from 01.07.1992.