
(2025) 10 P&H CK 1404

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 11018 Of 2000

Central Tool Room

APPELLANT

Vs

Presiding Officer, Industrial Tribunal, Punjab, Chandigarh And
Anr

RESPONDENT

Date of Decision : 17-10-2025

Acts Referred:

Industrial Disputes Act, 1947 — Section 2(g), 10(1)(d)

Citation : (2025) 10 P&H CK 1404

Hon'ble Judges : Kuldeep Tiwari, J

Bench : Single Bench

Advocate : P.C. Goyal, G.S. Bal, Avtar Singh

Final Decision : Dismissed

Judgement

Kuldeep Tiwari, J

1. Through the instant writ petition, a prayer has been made for setting aside the award dated 01.09.1999, published in the Punjab Govt. Gazette dated 21.04.2000, as well as the order dated 12.09.1997, passed by respondent No.1-Industrial Tribunal.

2. Succinctly stated, the petitioner, Central Tool Room, is a Society registered under the Societies Registration Act, 1860 (hereinafter referred to as "the Act of 1860") and functions as an autonomous body financially supported by the Central Government. The genesis of the present dispute arises from a demand raised by steno-typists/stenographers (hereinafter referred to as "the respondent No.2") employed with the petitioner, seeking upgradation of their posts and corresponding higher pay scales in accordance with the recommendations of the 4th Pay Commission.

A demand notice dated 24.02.1995 was served by the respondent No.2, however, no settlement could be reached between the parties, which constituted bedrock for reference of the hereunder extracted industrial dispute for

adjudication to the Industrial Tribunal under Section 10(1)(d) of the Industrial Disputes Act (hereinafter referred to as "the I.D. Act").

"Whether the scales of pay of the workmen rendering stenographic assistance should be revised according to the recommendations of the 4th Pay Commission ? If so, from which date and the manner thereof? "

3. The Industrial Tribunal observed that the petitioner is an autonomous body and is competent to take its own decisions. Furthermore, in view of the decision taken by the Governing Council in its meeting held on 19.09.1979, the basis whereof was the absence of any rules or regulations governing the appointments and other service conditions of employees, including their pay scales and allowances, the Industrial Tribunal answered the reference in favour of respondent No.2. By passing the impugned award, the Industrial Tribunal held respondent No.2 entitled to the corresponding pay scale as per the recommendations of the 4th Pay Commission.

4. Learned counsel for the petitioner has assailed the impugned award primarily on three grounds:

(i) The Punjab Government lacked competence to make the reference to the Industrial Tribunal, as the petitioner is under the control of the Central Government, and hence only the Central Government could have made such reference;

(ii) Except for one employee, namely A.L. Garg, no other employee constituting part of the respondent No.2 before this Court, is entitled to the revised pay scales granted by the Industrial Tribunal; and

(iii) The respondent No.2 does not fall within the definition of "workman" under the I.D. Act.

5. Per contra, learned senior counsel appearing for the respondent No.2 has supported the validity of the impugned award, submitting that the petitioner, being a society registered under the Act of 1860, functions as an autonomous entity and is not under substantial financial control of the Central Government. It is further submitted that the competence of the authority to make a reference, alike the one at hand, depends upon the location of the industry, and since the petitioner's establishment is situated within the State of Punjab, the Punjab Government was the appropriate authority to refer the dispute. To substantiate this argument, reliance is placed upon *Heavy Engineering Mazdoor Union v. State of Bihar* (1969-II LLJ 549) and *Central State Farm v. Balbir Singh and Another*, 2001(3) RSJ 429.

6. It is further submitted that the respondent No.2 had not been extended the revised pay scales applicable to their category under the 4th Pay Commission. In this regard, attention is invited to Annexure P-1, which has been relied upon by the petitioner also, and which relates to revised entitlement of officers for stenographic assistance in subordinate offices.

7. Proceeding further, learned senior counsel has submitted that the petitioner had never disputed the aspect of pay scales before the Industrial Tribunal. To corroborate this submission, he has drawn the attention of this Court to paragraph 3 of the claim statement and the corresponding paragraph in the petitioner's written reply before the Industrial Tribunal, wherein the petitioner has admitted the relevant averments. Hence, the petitioner cannot now resile from its earlier stand and raise a dispute which is already admitted by it by filing written statement before the Industrial Tribunal. Paragraph 3 of the claim statement and written reply are extracted hereunder:-

"CLAIM STATEMENT

3. That the Standing Committee of the respondent also resolved in its meeting vide Agenda No.3(ii) held on 19th September, 1979, as under:-

"The Standing Committee decided to follow the same rules as are applicable to the Central Government servants till such time the CTR, Ludhiana, frame its own rules and regulations. These rules will be applicable to the staff of the CTR, Ludhiana, except the workers."

"WRITTEN REPLY

3. That para No.3 of the statement of claim is admitted."

8. Concluding his arguments, learned senior counsel for the respondent No.2 has submitted that the respondents No.2 are squarely fall within the definition of "workman" under the I.D. Act, and this issue is no more res integra. Moreover, as the petitioner did not raise this plea before the Industrial Tribunal, it cannot be permitted to raise the same for the first time before this Court in the present proceedings.

9. This Court has examined the issue in totality, and has also made a studied survey of the record with the able assistance of learned counsel for the contesting litigants.

10. Before proceeding to gauge the merits of the instant writ petition, it is important to record here that the instant writ petition was earlier dismissed by a Co-ordinate Bench of this Court, vide order dated 08.09.2009. However, subsequently an application was filed for re-calling of the said order, on the ground that, the decision was rendered in the absence of petitioner's counsel. Consequently, the dismissal order dated 08.09.2009 was recalled and the matter was restored for fresh hearing.

11. The first and foremost issue warranting consideration generates from dispute regarding competence of the authority concerned to refer the industrial dispute for adjudication to the Industrial Tribunal.

12. There is no wrangle between the contesting litigants that the petitioner is a society registered in the State of Punjab, having its offices and operational units within the State's territorial limits. Therefore, this Court has no hesitation to

observe that making of the reference for adjudication of the present industrial dispute by the authority concerned/Punjab Government was well within its competence and jurisdiction. This inference garners strength from the verdict rendered by the Hon'ble Supreme Court in Central State Farm's case (supra), wherein, while relying upon Heavy Engineering Mazdoor Union's case (supra), the following has been held:-

"9. In the case of Heavy Engineering Mazdoor Union v. State of Bihar and others, AIR 1970 Supreme Court 82, it has been held that when an industry is carried on by a Corporation incorporated under the Companies Act and not directly by the Central Government or any of its departments, the industry is not the one by the Central Government, though all the shares are owned by President of India and some officials. Of course, it was considered before the High Court that the company was not an industry carried on by the Central Government but the contention was that considering the fact that the entire share capital was contributed by the Central Government and extensive powers were conferred on it, the company must be regraded an industry carried on under the authority of the Central Government and, therefore, the Central Government was not the appropriate Government, which could make reference. It was held that it was rightly conceded by the High Court as also before the Supreme Court that the industry was not carried on by the Central Government. The Supreme Court, therefore, went to consider the question whether it was an undertaking carried on under the authority of the Central Government and observed as under:

"The words "under the authority of mean pursuant to the authority, such as where an agent or a servant acts under or pursuant to the authority of his principal or master. Can the respondent-company, therefore, be said to be carrying on its business pursuant to the authority of the Central Government? That obviously cannot be said of a company incorporated under the Companies Act whose constitution, powers and functions are provided for and regulated by its memorandum of association and the articles of association. An incorporated company, as is well known, has a separate existence and the law recognises it as a juristic person separate and distinct from its members. This new personality emerges from the amount of its incorporation and from that date the persons subscribing to its memorandum of association and others joining it as members are regarded as a body incorporate of a corporation aggregate and the new person begins to function as an entity."

10. It is also observed by the Supreme Court in the said judgment as under :

"The definition of employer in Section 2(g) of the Industrial Disputes Act also, on the contrary, suggests that an industry carried on by or under the authority of the Government means either the industry carried on directly by a department of the Government, such as the posts and telegraphs or the railways, or one carried on by such department through the instrumentality of an agent."

11. The reference was not challenged by a separate writ petition by the

petitioner-employer. Consequently, the Government was not a party before the Labour Court. The Government is not a party before this Court also. In the case of Binny Limited v. Their Workman and another, AIR 1972 Supreme Court 1975, it has been held that objection at appellate Stage that an order of reference is invalid is not maintainable when Government is not a party to the proceeding.

12. In view of the above reasons, I find that the reference made by the State Government cannot be said to be a reference not by the appropriate Government."

13. The next issue warranting consideration stems from submission of the petitioner's counsel with regard to grant of corresponding pay scales to the respondent No.2. To the considered mind of this Court, this submission is misconceived, inasmuch as, while filing reply before the Industrial Tribunal, no such dispute was raised by the petitioner, rather there was a specific admission made in the reply filed by the petitioner.

14. Now, the issue inviting attention of this Court is the one appertaining to entitlement of the respondent No.2 to the pay scales granted by the Industrial Tribunal.

15. The record reveals that the petitioner had not framed any rules and regulations to regulate the appointments and other conditions of its employee, including their scales of pay and allowances, hence it was for the Governing Council (Supreme Body) to consider and take decision with regard to the recommendations made by its General Manager. It is also undisputed that the revised scales of pay allowed by the Central Government in implementation of the recommendations of the 4th Pay Commission were not automatically applicable to the autonomous bodies, like the petitioner, without the competent body or authority adopting the same with or without modification. The Governing Council of the petitioner had adopted the revised pay scales introduced by the Central Government with effect from 01.01.1986, and the office order dated 09.05.1987 was issued by its Administrative Manager. The Industrial Tribunal, therefore, rightly held that the communication from the Integrated Finance Wing of the Government of India was inapplicable, given that the Governing Council had already taken a decision way back on 19.09.1979. Hence, no infirmity or perversity can be found in the impugned award on this aspect.

16. The final issue emerging from the submission of petitioner's counsel is that the respondent No.2 do not fall within the definition of "workman". However, no relevant pleadings or documents have been referred to by the petitioner's counsel to substantiate this submission. Therefore, in the dearth of any such pleading or material evidence, this issue deserves no consideration.

17. In summa, the instant writ petition is dismissed and the impugned award is upheld. In the award of the Industrial Tribunal, 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. In view of the affirmation of the award, this Court directs the amounts as calculated and found payable, shall bear 6% interest per annum from 01.07.1992.