

(2001) 06 PAT CK 0010
In the Patna High Court
Case No : C.W.J.C. No. 10502/94

Dawlin Nir and Others

APPELLANT

Vs

Hindustan Fertilizer Corporation Ltd. and Others

RESPONDENT

Date of Decision : 29-06-2001

Acts Referred:

Citation : (2001) 3 PLJR 531

Hon'ble Judges : Shiva Kirti Singh, J

Bench : Single Bench

Advocate : Mihir Kumar Jha and Namrata Mishra, for the Appellant; K.N. Gupta, for the Respondent

Judgement

Shiva Kirti Singh, J.—All the 40 Petitioners are employees of the Respondent, Hindustan Fertiliser Corporation Ltd. an instrumentality of Government of India. The Petitioners are workmen at the Barauni unit of the Corporation. The common grievance of the Petitioners is that according to Industrial agreement between workmen and the management dated 19.5.1981 (Annexure-8) the workmen became entitled to a stagnation scheme by way of fringe benefit. Under the stagnation scheme introduced in the year 1981 the span of earlier stagnation scheme of 10 years was reduced to seven years with a specific agreement that the workmen who have completed seven years in a particular scale will get the next higher scale under the scheme even if they have already been promoted under the scheme or regularised earlier.

2. The Petitioners' grievance is that in spite of such clear agreement clarification to the contrary were issued by the Respondent authority vide letter dated 12th March, 1992 (Annexure-3) and 29th July, 1993 (Annexure-1) which adversely affected the stagnation scheme in force and wrongly made the Petitioners' stagnate beyond seven years in the scale of Rs. 2200- 3600/-. According to Petitioners they were entitled after completing seven years span in the scale of Rs. 2200-3600/- which was given to them under the stagnation scheme to get further higher scale by virtue of stagnation scheme itself. Thus the Petitioners

assert the right to get a second higher scale under the stagnation scheme itself on account of the fact that the agreement did not specify grant of only one higher scale under the stagnation scheme nor it specified any particular ceiling of scale to limit grant of higher scales under the stagnation scheme. In support of their stand the Petitioners relied upon Annexure-8 series which contain various agreements.

3. This writ application for a challenge to clarifications given in Annexures 3 and 4 relating to aforesaid controversy with regard to stagnation scheme for the workmen was filed in November, 1994 and admitted for hearing. During the pendency of the writ application the Respondents took an important decision relating to the aforesaid dispute concerning stagnation allowances as arrears from communication dated 14.7.98 (Annexure- 14) brought on record through a supplementary affidavit on behalf of the Petitioners. Petitioners' clear stand in the said supplementary affidavit is that the Petitioners grievance with regard to grant of second stagnation scheme has been allowed by the Management vide circular dated 14.7.98 (Annexure-14). Their only grievance after 14.7.98 is that they have been given the necessary benefits as per order dated 20th August, 1993 (Annexure-15) prospectively whereas according to Petitioners the relief granted by Annexure-14 ought to have been ordered for being paid to the aggrieved employees like the Petitioners with restropective effect i.e. from the dates they had been entitled for the second stagnation scale. A chart contained in Annexure-1 has been relied upon to demonstrate that the Petitioners were entitled for the second stagnation scale from various months in the year 1987 onwards upto December, 1993. According to Petitioners there is no justifiable reason available to the Management for not giving to the Petitioners the second stagnation scale of Rs. 2400-4320/- from the due dates as claimed by the Petitioners through Annexure-1.

4. On the other hand, on behalf of Respondents it was submitted that by way of stagnation allowances Petitioners had been given the highest pay-scale available for workmen i.e. Rs. 2200-3600/- and there was no scope for further higher pay-scales under the stagnation scheme because the grant of the scale of Rs. 2200-3600/- meant that the Petitioners had received the pay-scale of officers and therefore they cannot be permitted to claim any further stagnation benefit available to workmen only. The next submission on behalf of the Respondents was that the revised scheme for next higher scale to workmen like the Petitioners as introduced by Annexure-14 was discussed with the recognised union on various dates in July and August, 1998 and the note of discussions contained in Annexure-C to the supplementary counter affidavit would show that the Union, expressed acceptance of all the points and on the assurance of the Union the provisions in Annexure-14 were implemented by the Management and accepted by the workmen as admitted by the Petitioners. On the basis of such acceptance by the workmen including the Petitioners, the stand of the Respondents is that now the Petitioner having taken advantage under Annexure-14 are stopped in law from challenging the said decision and are also stopped from raising a

demand that such a decision ought to have been with retrospective effect for the individual employees like the Petitioners. On behalf of the Respondents it was further submitted that the workmen cannot claim such ultimatum stagnation allowances in view of virtual closure-of the Barauni unit and acute financial hardship which has led to a situation where the affairs of the Corporation are pending before the Board for Industrial and Financial restructuring (BIFR). The loss of the Barauni Unit has been alleged to be 97 crores in 1997-98 and it has been disclosed that salary is being paid from grants although there is no production in the factory.

5. So far as the original grievance of the Petitioners is concerned, the same has been now redressed by the decision contained in Annexure-14. The said decision appears to have been approved by the Union of workmen and has been implemented without any protest etc. by the Petitioners or the other workmen. In such circumstances, it would not be proper to reopen the issue of stagnation allowances after it has been closed to the satisfaction of the Union and accepted by the Petitioners also. In such circumstances there appears substantial force in the submission advanced on behalf of the Respondents that the Petitioners are stopped in law to make any further grievance with regard to stagnation allowances. No doubt, as pointed out by the learned Counsel for the Petitioner there is no specific written agreement that as a result of implementation and acceptance of the decision contained in Annexure-14. the pending litigations such as the present writ petition will stand settled or withdrawn. In such a situation, this Court is of considered opinion that the matter of stagnation allowance concerning the workmen as already settled by Annexure-14 should not be reopened. But it is also clear that the Petitioners have not given up their right to continue with the present litigation in unequivocal terms either personally or through their (sic). Hence it is deemed just and proper to direct the Respondents to compensate the Petitioners in monetary terms without actually revising the scale implemented in pursuance of Annexure-14. For calculating such monetary benefit the Respondents will notionally treat annexure-14 to be applicable to the Petitioners with effect from December, 1994, as the writ application was filed on 30th November, 1994. The amount calculated in the aforesaid , manner and found payable to the Petitioners should be paid to them within two months from today.

6. Before parting with the judgment it is deemed necessary to disclose that this Court was not inclined to accept the argument advanced on behalf of the Respondents that no further stagnation allowances was payable beyond the scale of Rs. 2200-3600/- because by virtue of being in this scale the workmen ceased to be workmen. On the other hand, although higher stagnation allowance since 1987 onwards has been claimed by some of the Petitioners as per chart contained in Annexure-1, but this Court did not feel just and proper to allow monetary compensation for the period earlier to filing of the writ application.

7. The writ application is thus, disposed of. There shall be no order as to costs.