

(2012) 02 P&H CK 0297

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 1358 of 2010 and C.W.P. No. 7550 of 2010.

Ram Diya

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 15-02-2012

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2012) 166 PLR 682

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : R.K. Malik, with Mr. Kohal Sharma in C.W.P. No. 1358 of 2010 and in C.W.P. 7550 of 2010, for the Appellant; Paramjit Batta, Addl. A.G., Haryana, for Respondent No. 1, in C.W.P. No. 1358 of 2010 and in C.W.P. 7550 of 2010, Mr. R.N. Sharma, for Respondent Nos. 2 and 3 and in C.W.P. No. 1358 of 2010 and Mr. Kulwer Narwal, in C.W.P. No. 7550 of 2010, for the Respondent

Judgement

K. Kannan, J.—Both the writ petitions are connected and they are taken up together. The petitioners are employees of various Sugar Mills situate within the State of Haryana. They are governed by the Service Rules for the Employees of the Cooperative Sugar Mills in the State of Haryana. The Rule No. 43 of the Service Rules is as follows:-

43. Pay and Allowances Employees" covered under Sugar Wage Board will be governed in the matter of pay and allowances as per the Sugar Wage Board recommendations. The pay of other employees will be as per Annexure-A and their allowances will be as per Government Rules.

The petitioner's grievance is that the pay scales of the employees, which shall be as per the Government Rules ought to provide for a parity for employees doing the same type of work and having the same type of responsibility and the Government cannot approve of varying scales of pay. The petitioner's grievance is particularly directed against higher scales provided for Panipat Sugar Mill and approved by the Haryana Government.

2. The Government has filed its counter stating that all the petitioners have bound themselves to terms and conditions of employment and they are bound by the Government scales, which are fixed in terms of the Rules and they cannot bring a comparison to their own scales of pay to the scales applied for employees of Panipat Sugar Mill.

3. Learned counsel appearing for the respective management of the sugar mills where the petitioners are working also have a similar contention to make that all the petitioners are bound by the terms and conditions of service and they cannot ask for a parity with the scales of any one particular sugar mill where higher scales of pay are given.

4. Learned counsel appearing on behalf of the Registrar, Cooperative Society Sugar Mills contends that the petitioners will be bound by the terms and conditions and that in any event, there cannot be a mandamus to modify the Rules.

5. The issue is not whether the petitioner can seek for parity of scales with any one sugar mill. The issue, on the other hand, is that when all the sugar mills are governed by the same set of Rules namely Service Rules of Employees of Cooperative Sugar Mills and Rule 43 prescribes for the payment of employees as per the Government Rules, in the manner of exercise of power by the Government for regulating the scales, it ought to formulate its policy that it does not adopt any practice discrimination. If the contention on behalf of the Registrar, Cooperative Society were to be that they would allow for varying scales depending on the profitability of the respective sugar mills or they had data with them that allowed for higher scales for Panipat, perhaps the difference in the pay scales applied could be understood. There is no attempt anywhere in the objection filed by any of the respondents that the Government acted on any specific data that was available to allow for higher scales. The only contention I find is that initially when the Panipat Sugar Mill was established and the Board of Directors were prescribing scales of pay, the Service Rules had not been formulated and therefore, the Board had, on its own wisdom, provided for certain scales and they were at all times providing their own scales. This is rather a strange argument, for if the Government at some point of time deemed it expedient or the sugar mills themselves were prepared to bring the Service Rules of all the employees of Cooperative Sugar Mills in the State of Haryana under the common umbrella, I would understand the effort was to secure homogeneity in the employment terms in all sugar mills. While a discrimination per se is not bad in the scheme of Article 14 that an intelligible differential has reasonable nexus to the objects sought to be achieved, such standard could be permitted. Such intelligibility must extend to a conscious attempt to identify different approaches that would require different treatment for any specified reasons. The impugned order issued by the Managing Directors of the respective Sugar Mills setting out the consent of the Finance Department of the Haryana Government as flowing for the different scales of pay cannot be accepted unless the Government

addresses the issue of parity and finds scope for applying different scales for different sugar mills on any justifying circumstances. Otherwise, the very purpose of bringing about the uniform service rules for the employees of all the cooperative sugar mills will be completely defeated. The impugned notices are quashed and the matter be placed before the Registrar of the Cooperative Societies to consider the respective petitioner's plea from various sugar mills within the State of Haryana, to examine the issue of parity of scales for the employees of various sugar mills, who have similar duties and who have similar qualification. The decision shall be taken within a period of 12 weeks and communicated to the petitioners. Both the writ petitions are disposed of as above.