

Before Dr. Bharat Bhushan Parsoon, J.

**HARYANA DAIRY DEVELOPMENT
COOPERATIVE FEDERATION LTD.—Petitioner**

versus

**PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT AND ANOTHER—Respondents**

CWP No. 10176 of 1992

December 19, 2013

Constitution of India, 1950 - Statutory Authority - Autonomous Character - Pay Scales - Government made reference to Labour Court - Whether workers of Petitioner are entitled to revised pay scale from 1.4.1979 instead of 1.1.1981 - Labour Court held that employees of Petitioner Federation were entitled to pay scales from 1.4.1979 - Petitioner, a statutory body, autonomous in character challenged adjudication made by Labour Court - Petitioner Federation is independent, autonomous and different entity from Government - Writ allowed - Held, Petitioner Federation is neither a Government department nor can be equated with one such department - No statutory body, authority or autonomous entity can be forced to adopt a particular decision in a particular way in relation to implementation of recommendations of pay commission - Writ allowed.

Held, that petitioner-federation is neither a Government department nor can be equated with one such department of the Government.

(Para 5)

Further held, that when choice of granting of particular pay scales lies with statutory bodies, the dates from which those particular pay scales are to be implemented also falls within their domain.

(Para 7)

Further held, that from the discussion as already made, it clearly comes out that no statutory body, authority or autonomous entity can be forced to adopt a particular decision in a particular way in relation to implementation of recommendation of Pay Commissions irrespective of the fact that such recommendations have been accepted by any Government. Merely because the revised scales had been implemented by the petitioner-federation for its employees w.e.f. 1.1.1981 and not from 1.4.1979, the Labour Court could not have forced its judgment on the petitioner-federation for implementing revised scales from a particular date. There are multiple considerations including fiscal matter which are to be taken into consideration by the authorities. For such fiscal matter, the Tribunals or the Courts are not supposed to interfere as was held in the authorities mentioned earlier.

(Para 8)

K.K.Gupta, Advocate, *for the petitioner*.

B.S.Saini, Advocate, *for respondent No.2*.

DR. BIHARAT BHUSHAN PARSOON, J.

(1) Challenging Award (Annexure P-6) of 22.12.1991 of the Industrial Tribunal-cum-Labour Court, Gurgaon (hereinafter referred to as, the Labour Court), claim of the petitioner-federation is that notwithstanding any control of the Government on the petitioner, it having been brought into existence as a statutory authority maintaining autonomous character, it cannot be forced to grant benefits to its employees on the pattern of Government employees. Among other things, the matter referred to the Tribunal by the Government vide reference order dated 6.5.1983 (Annexure P-3) was as under:

"Whether the workers are entitled to the grant of revised pay scale w.e.f. 1.4.79 instead of 1.1.81? If so, with what details?"

(2) Adjudicating the industrial dispute referred to it, the Labour Court had come to a conclusion that employees of the petitioner-federation were entitled to the revised pay scale w.e.f. 1.4.1979 instead of 1.1.1981. This adjudication is under challenge. Claiming that revision of pay scales by the Government is not ipso-facto applicable to the employees of the petitioner-federation as it is independent, autonomous and entirely different entity from the Government and competent enough to take separate and independent decision through its Board of Directors, claim of all the workmen is resisted.

(3) Counsel for respondent No.2, however, has urged that once having released the new scales, the petitioner-federation/employer could not have denied its release from that date itself when the Government had released such new pay scales to its employees and could not have fixed an arbitrary date for release of such scales.

(4) Hearing has been provided to counsel for the parties while going through the paper book.

(5) Petitioner-federation is neither a Government department nor can be equated with one such department of the Government. This proposition is sustained and supported by *State of Punjab and others versus Raja Ram and others (1)*, wherein though Food Corporation of India was held to be a company, but it was further held that it was not a Government department. Similarly, Steel Authority of India was held to be not a department in *Steel Authority of India Limited versus Shri Ambica Mills Limited and others (2)*. Statutory bodies and autonomous entities have existence, separate and distinct and set apart from the Government either of any State or of Union of India. Merely because those are situated within the territory of any such Government or are even having support from such Governments cannot be forced to toe the line of such Governments and rather are independent to have their separate decisions. In CWP No.13504 of 2003 *Kharak Singh and others versus Improvement Trust, Jagadhri and others* decided on 23.1.2006, this Court had held that employees of the Improvement Trust, Jagadhri and others were not entitled to leave encashment of 300 days which is applicable only to Government employees. It was held

(1) AIR 1981 SC 1694

(2) AIR 1998 SC 418

that merely because same pay scales had been given by the Improvement Trusts, all other similar benefits would not follow. This decision was followed in CWP No.15523 of 2007 *Harbans Lal and others* Versus *State of Haryana and others* decided on 8.8.2008. Merely because scales of pay have been revised for its employees by any Government, employees of autonomous bodies existing within the said State cannot claim parity for the same scales of pay. Even the recommendations of Pay Commission are usually directory and cannot be taken in the nature of a mandate. In *Union of India* versus *Arun Jyoti Kundu and others* (3), it was held by Hon'ble Supreme Court of India that no Court or Tribunal can direct the Government to accept the recommendations and implement the same from the date recommended in that behalf.

(6) Similarly, in LPA No.270 of 2012 *The State of Punjab and others* Versus *Balbir Singh and others* decided on 14.8.2012 upholding a particular notification providing for different pay scales to art and craft group of teachers viz. a viz. to any other group, judgment of Single Bench which had quashed the said notification was reversed. It thus follows that even different scales of pay to be applicable from different dates is within the power of the concerned authorities.

(7) When choice of granting of particular pay scales lies with statutory bodies, the dates from which those particular pay scales are to be implemented also falls within their domain. In *State of West Bengal* versus *Subhas Kumar Chatterjee* (4), it was held that the Courts cannot issue a declaration granting a particular pay scale which by implication would also mean to be applicable from any particular date, as fixation of pay and determination of parity in duties and responsibilities is a complex matter which is for the executive to deal with and not for the courts. In short, it was held that the Courts cannot compel any State or authorities to accept the recommendations of Pay Commissions. Somewhat on similar lines is the judgment of Hon'ble Supreme Court of India in *Director of Public Instructions, Punjab* Versus *Mahesh Chander and others* in Civil Appeal Nos.4053-4054 of 1998 decided on 14.8.1998.

(3) (2007) 7 SCC 472

(4) (2010) 11 SCC 694

(8) From the discussion as already made, it clearly comes out that no statutory body, authority or autonomous entity can be forced to adopt a particular decision in a particular way in relation to implementation of recommendation of Pay Commissions irrespective of the fact that such recommendations have been accepted by any Government. Merely because the revised scales had been implemented by the petitioner-federation for its employees w.e.f. 1.1.1981 and not from 1.4.1979, the Labour Court could not have forced its judgment on the petitioner-federation for implementing revised scales from a particular date. There are multiple considerations including fiscal matter which are to be taken into consideration by the authorities. For such fiscal matter, the Tribunals or the Courts are not supposed to interfere as was held in the authorities mentioned earlier.

(9) Sequely, to the abovesaid extent, findings of the Labour Court on issue No.4 being contrary to law are reversed. This issue, consequently, is answered in favour of the petitioner-federation. Rest of the Award is confirmed.

(10) The petition is allowed only to the extent indicated above.

J.S. Mehndiratta