

Balbir Singh & Ors vs Guru Hargobind Institute Of Management ... on 17 July, 2020

Author: Jyoti Singh

Bench: Jyoti Singh

\$~A- 8 to 14

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 5857/2019 & CM APPLNs. 13396/2020, 25505/2019, 36951/2019

BALBIR SINGH & ORS.

..... Petitioners

versus

GURU HARGOBIND INSTITUTE OF MANAGEMENT &
INFORMATION TECHNOLOGY & ORS. Respondents

+ W.P.(C) 8529/2017 & CM APPLNs. 35084/2017, 32772/2018 & 10712/2020

OM PRAKASH & ORS.

..... Petitioners

versus

GURU NANAK INSTITUTE OF MANAGEMENT &
INFORMATION TECHNOLOGY & ORS. Respondents

+ W.P.(C) 7881/2018, CM APPLNs. 30201/2018 & 10686/2020

KAWALJEET SINGH & ORS.

..... Petitioners

versus

GURU NANAK INSTITUTE OF MANAGEMENT &
INFORMATION TECHNOLOGY & ORS. Respondents

+ W.P.(C) 3104/2020, CM APPLNs. 10783/2020 & 13489/2020

SURINDER SINGH & ORS.

..... Petitioners

versus

GURU NANAK INSTITUTE OF MANAGEMENT
& ORS. Respondents

+ W.P.(C) 3569/2020, CM APPL. 13608/2020 and CM APPL. 12700/2020

DARSHAN SINGH & ORS.

..... Petitioners

versus

GURU NANAK INSTITUTE OF MANAGEMENT
& ORS.

..... Respondents

+ W.P.(C) 3854/2020 & CM APPL. 13795/2020

KAWALJEET SINGH & ORS.

..... Petitioners

versus

GURU NANAK INSTITUTE OF MANAGEMENT &
INFORMATION TECHNOLOGY & ORS.

..... Respondents

+ W.P.(C) 4058/2020 & CM APPL. 14553/2020

BALBIR SINGH & ORS.

..... Petitioners

versus

GURU HARGOBIND INSTITUTE OF MANAGEMENT &
INFORMATION TECHNOLOGY & ORS.

..... Respondents

Through: Mr. Rajat Aneja and Ms. Bhawana Pandey, Advocates
for Petitioners.

Mr. Jasmeet Singh, Advocate for R-1 and R-2.

Mr. Anil Soni (Standing Counsel, AICTE) with Mr.
Devesh Dubey, Advocate for AICTE.

Mr. Ibad Mushtaq and Mr. Fuzail Ahmad Ayyubi,
Standing Counsel for JMI/R-3.

Mr. Manjinder Singh Sirsa, President of DSGMC.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% 17.07.2020 Hearing has been conducted through Video Conferencing. W.P.(C) Nos. 5857/2019, 8529/2017, 7881/2018, 3104/2020, 3569/2020 Repeated Orders have been passed in these matters for release of salaries of the teachers/ staff of the Institutes.

Mr. Rajat Aneja, Learned Counsel for Petitioners, has drawn the attention of the Court to the Orders dated 26.04.2019, 08.01.2020, 08.05.2020, 26.05.2020, 01.06.2020 and 22.06.2020 in this regard wherein directions have been issued and in fact on 08.05.2020, Respondent had undertaken to pay, though in terms of its Resolution, at reduced rates, as an interim arrangement.

Mr. Rajat Aneja further points out that as far as two Institutes, namely, Guru Nanak Institute of Management & Information Technology and Guru Hargobind Institute of Management are concerned, salaries have not been paid from February, 2020 and as far as Guru Nanak Institute of Management is concerned, salaries have not been paid since December, 2019. In respect of one of the teachers namely, Prabhjot Kaur, non-payment is for a period even prior thereto.

He further submits that even when the salaries were being paid, fixation was on the basis of 5th Pay Commission, despite revisions in other Schools under two subsequent Pay Commissions.

Mr. Jasmeet Singh, Learned Counsel for Respondent Nos. 1 & 2, submits that as far as the Central Pay Commission Recommendations are concerned, they are not applicable to the Institutes in question and this issue would be argued when the petitions are finally heard and no revision can thus be claimed at interim stage.

Having heard the Learned Counsels for the parties, in my view, the issues of revision of salary etc. would be decided when the Petitions are finally heard.

At present, the main concern of the Court is that the Petitioners herein have not been paid their salary for many months. Most of them have dependent and old parents and children to fend for besides medical expenses, etc. Pain, agony and sufferings of these teachers and other employees cannot be aptly described in words.

Preamble of our Constitution guarantees social and economic justice to the People of this Country. Once this Preamble is the guiding light which illuminates the path that an employer must follow, the imperative is that an employer cannot be permitted to deviate from the philosophy of social and economic justice ingrained in the Constitution. How then would a Constitutional Court react to the employees who are grappling for survival and are on verge of starvation. Would a Court be a mute spectator or pass directives to further the objective of economic justice enshrined in the Constitution.

In *S.P. Gupta v. Union of India and Another*, (1981) Supp SCC 87, Supreme Court held as under:-

"27. ... The judiciary has, therefore, a socioeconomic destination and a creative function. It has to use the words of Glanville Austin, to become an arm of the socio-economic revolution and perform an active role calculated to bring social justice within the reach of the common man. It cannot remain content to act merely as an umpire but it must be functionally involved in the goal of socio-economic justice."

In *Harjinder Singh v. Punjab State Warehousing Corporation*, (2010) 3 SCC 192, Supreme Court had the following to state : -

"It need no emphasis that if a man is deprived of his livelihood, he is deprived of all his fundamental and constitutional rights and for him the goal of social and economic

justice, equality of status and of opportunity, the freedoms enshrined in the Constitution remain illusory. Therefore, the approach of the courts must be compatible with the constitutional philosophy of which the directive principles of State policy constitute an integral part and justice due to the workman should not be denied by entertaining the specious and untenable grounds put forward by the employer -- public or private."

It is undisputed that the salaries have not been disbursed to the Petitioners for several months now and, that too, despite repeated Court orders. Though the Court is not unmindful of the fact that the Pandemic COVID-19 has adversely affected even the Respondents and the inflow of cash by way of donations may be comparatively less, but that does not justify non-payment of salaries to employees and Court cannot subscribe to the argument of the Respondent that in view of the prevailing circumstances payments be deferred indefinitely.

At the end of hearing, however, Mr. Jasmeet Singh submits that salaries will be released to the Petitioners herein within two weeks, but with a caveat that payments for the months of March, 2020 and April, 2020 will be at the reduced rate, in terms of the Resolution passed by the Management on 06.05.2020 and as recorded in the Order of this Court dated 08.05.2020, which of course, was without prejudice to the rights and contentions of the parties.

Having perused the order dated 08.05.2020, I find force in this submission of Mr. Singh. Respondent shall release the salaries for March and April, 2020 in terms of the undertaking given on the said date, in accordance with the Resolution.

For the months of May, 2020 and June, 2020, Petitioners shall be entitled to full salaries. Respondent shall also release arrears as directed by previous orders.

Needless to state that this is only an interim arrangement and is without prejudice to the rights and contentions of all parties herein qua their claims and objections, respectively, in the main petitions.

It is made clear that the needful would be done within a period of two weeks from today, failing which the Court will be constrained to take coercive action.

List the Petitions on 04.08.2020 for reporting compliance. W.P. (C) Nos. 3854/2020 & 4058/2020 W.P.(C) No. 3854/2020 lays a challenge to an order dated 16.06.2020 whereby Respondent No.1 has laid off the Petitioner w.e.f. 19.06.2020 and W.P.(C) 4058/2020 challenges the order dated 13.06.2020 laying off the Petitioner w.e.f. 15.06.2020. Since the Impugned orders are yet to be adjudicated upon, the Petitioners as an interim measure will be entitled to salaries upto the date of Impugned Orders, in the manner afore-mentioned.

List the Petitions on 04.08.2020 for reporting compliance.

JYOTI SINGH, J JULY 17, 2020/yo