

Supreme Court of India

All India Trade Union Of Food ... vs J.M. Lyngdoh And Ors. on 25 January, 1993

Equivalent citations: JT 1993 (1) SC 606, (1993) IILLJ 1148 SC, 1993 (1) SCALE 206, (1993) 2 SCC 31, 1993 (1) SLJ 115 SC, (1993) 2 UPLBEC 874

Bench: P Sawant, N Venkatachala

ORDER

1. This contempt petition is filed by Class III and Class IV employees of the Food Corporation of India [FCI] with the grievance that the respondent-FCI has not complied with the direction given by this Court in its order of 3rd May, 1990. Two of the directions of which we find non-compliance by the respondents are:

[i] Recommendations made in the report of the High Power Pay Committee with regard to the revised pay scales which were to be implemented w.e.f. 1.1.1986.

[ii] The employees concerned were to continue to enjoy the option to switch over to the Industrial Dearness Allowance [IDA] pattern of the scales of pay on a voluntary basis.

2. In its reply to the contempt petition, the respondent-FCI has pleaded that it was acting according to the directions of the Central Government. The counter filed on behalf of the Union of India shows that they have confused the case of the employees of the FCI with those of the other Public Sector Enterprises [PSEs]. It is necessary in this connection to refer to the recommendations of the High Power Pay committee [H.P.P. Committee] which were directed to be implemented by our order of 3rd May, 1990. Paragraph 8.27 to paragraph 8.31 of the H.P.P. Committee report [Report] refers to the employees of the FCI and points out that from the beginning, the pay scales of the employees of FCI did not correspond to Government pay scales and they were higher than the Government pay Scales for certain reasons. This difference in the pay scales was maintained throughout. However, when the H.P.P. Committee was seized of the matter, the declared policy of the Government was that they would like the enterprises like the FCI which were following the CD A pattern to switch over to the ID Act pattern and consequent to this, they could also get the higher pay scales available in ID Act companies. If this happens, the earlier justification for maintaining the differential vis-a-vis Government scales would disappear which justification had weighed With the Narang Committee which was appointed earlier in May, 1974 to recommend the structure of emoluments and conditions of service of the employees of the FCI. Hence the H.P.P. Committee pointed out that it was difficult for them to make an exception in the case of FCI and recommend pay scales different from those recommended for others PSEs for future employees. However, the Committee held that in the case of existing incumbents who have already derived the benefit of the present differential, they had recognised the said differential and protected their interest by giving them personal scales of pay as elaborated in Chapter 9 of the report.

In paragraph 9.8 of the report, the Committee has stated that for the reasons discussed in the preceding paragraphs, they had recognised higher pay scales that had arisen in various PEs, for the purpose of prescribing the new scales of pay. However, taking into account, the corresponding Government scales of pay, that had recommended in Chapter VIII, the new scales of pay for such

posts based on the Fourth Pay Commission scales. The position, therefore, would be that in respect of all these posts, the existing Third Pay Commission pay scales will not be revised to the Fourth Pay Commission's replacement scales. Hence, to avoid hardship to the existing incumbents in these cases, they proposed giving Personal Scales of pay for those incumbents. They have been involved on the basis of Fourth Pay Commission's replacement scales corresponding to the existing Third Pay Commission scales excepting in the cases of top level posts for reasons mentioned at para 8.25 of the report. The Committee, therefore, recommended that as a special case, personal scales as indicated in Annexure 9.1 be given to the existing incumbents in those posts.

Annexure 9.1 shows the following equations of personal scales of pay recommended by the H.P.P. Committee for the employees with which we are concerned.

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Old FCI Revised Personal Category Scales Scales granted by HPPC

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CLASS III Group A Rs. 290-485 Rs. 1200-2040 Group B Rs. 380-640 Rs. 1350-2200 Group C Rs. 450-850 Rs. 1400-2600 CLASS IV Group A Rs. 210-290 Rs. 800-1150 Group B Rs. 225-308 Rs. 950-1400 Group C Rs. 260-350 Rs. 950-1500

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3. However, the FCI has granted revised scales to Group 'A' and 'C' of the Class III as Rs. 975-1540 and Rs. 1500-2300 respectively. Only Group 'B' employees have been correctly given revised personal scales as Rs. 1350-2200. As far as Group 'A', 'B' and 'C' of Class IV employees are concerned, FCI has given Rs. 750-940, Rs. 750-940 and Rs. 800-950 respectively. There is thus, obviously a non-compliance of the direction given by this Court as far as the grant of revised scales is concerned.

4. We also find that there is no justification for not giving the option to these employees to change over to the ID Act pattern of scales of pay. As stated above, our order dated 3rd May, 1990 had categorically stated that the employees will continue to enjoy the option to switch over to the ID Act pattern of scales of pay on voluntary basis. The order also had not prescribed any time limit. within which the option was to be exercised.

5. We, however, find no substance in the contention of the petitioner-employees with regard to the payment of House Rent Allowance [H.R.A.J. As per our order, the existing H.R.A. structure was to be reviewed by the Bureau of Public Enterprises and the revised norms and rates were to be fixed from a prospective date. There was no direction to pay the employees of FCI, H.R.A. at the same rate whether they were under ID Act or CDA pattern as alleged on behalf of the petitioners.

6. Thus, we find that there is non-compliance of the directions to give the revised personal scales of pay as recommended by the H.P.P. Committee to the said employees of the FCI as well as of the direction to give the option to the employees to switch over to the ID Act pattern of scales of pay.

7. We, therefore, direct the FCI to give to its employees concerned, revised personal scales of pay as recommended by the H.P.P. Committee which we have reproduced above. We further direct the FCI to keep open the option of the employees to switch over to the ID Act pattern of scales of pay for a period of six months from today. Such of the employees who desire to exercise the said option may do so, within the said period. The limitation of time that we impose hereby is, though in slight modification of our earlier order of 3rd May, 1990, is considered necessary taking into consideration all the circumstances of the case.

8. The contempt petition is disposed of as above.