

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO.512 OF 2017

N.C.C.F. EMPLOYEES UNION (REGD)(RECOGNIZED) & ANR. ..Petitioners

VERSUS

UNION OF INDIA & ANR. ..Respondents

WITH

WRIT PETITION (CIVIL) NO.1221 OF 2020

SANJAY SINGH ..Petitioner

VERSUS

UNION OF INDIA & ANR. ..Respondents

O R D E R

WRIT PETITION (CIVIL) NO.512 OF 2017

1. This petition filed under Article 32 of the Constitution of India has prayed for following reliefs:

- “(a) Issue an appropriate writ in the nature of mandamus or any other appropriate writ, direction or order declaring that the respondent 2, namely, National Co-operative Consumer Federation of India Limited is State within the meaning of Article 12 of the Constitution of India and is amenable to writ jurisdiction.
- (b) Issue an appropriate writ, direction and order commanding the respondent 1 and 2 to give (i) 80% arrears/balance amount of 6th Pay Commission, (ii) Arrears of dearness allowance w.e.f. July 2015 as declared by the Government of India from time to time, (iii) revised pay scales as recommended by 7th Pay Commission with arrears w.e.f. 1.1.2016, (iv) payment of leave encashment for the year 2015,

2016, (v) pay fixation, upgradation/promotion of class IV employees, (vi) payment of Tea Allowance and Medical Reimbursement to the Head Office employees, as has been given to the employees of other branches of N.C.C.F., (vii) Arrears of Leave Travel Concession w.e.f. 2005, and (viii) retiral benefits/dues to the retired employees, as mentioned in Annexure 11."

2. The petitioner has averred:-

"4. That there are conflicting judgments of the Hon'ble High Court of Judicature at Patna and the Hon'ble High Court of Delhi on a question as to whether the respondent No.1 is a State within the meaning of Article 12 of the Constitution of India and is amenable to writ jurisdiction. A Division Bench of the Hon'ble High Court of Delhi in its judgment titled J.S. Arneja Vs. N.C.C.F. 1994 (28) DRJ 546 has held that the N.C.C.F. is not State within the meaning of Article 12 of the Constitution of India. However, the Hon'ble High Court of Judicature at Patna by its Judgment and Order dated 11.9.2008 in Civil Writ Jurisdiction Case No.7042 of 1995 and in Civil Writ Jurisdiction Case No.9940 of 1996 has held that the N.C.C.F. is a State within the meaning of Article 12 of the Constitution of India and the same is amenable to writ jurisdiction. The aforesaid judgment of the Ld. Single Judge dated 11.9.2008 has been upheld by the Division Bench of High Court of Judicature at Patna in Letters Patent Appeal No.926 of 2008 and 863 of 2008 filed by Chairman/President N.C.C.F. vide its Judgment and Order dated 7.7.2011.

Against the aforesaid Judgment and Order dated 7.7.2011 passed by the High Court of Judicature at Patna, the Chairman/President N.C.C.F. of India has filed Civil Appeals No.1918-1919 of 2012 are pending disposal before this Hon'ble Court. This Hon'ble Court by order dated 6.2.2012 while granting leave to appeal refused to grant stay of the impugned judgment and order dated 7.7.2011 passed by the Hon'ble High Court of Judicature at Patna."

3. As is clear from the record, the Division Bench of the Patna High Court (in LPA No.926 of 2008 arising from CWJC No.7042 of 1995) had affirmed the view taken by the Single

Judge holding the National Co-operative Consumers' Federation of India Limited (for short "NCCF") to be a "State" within the meaning of Article 12 of the Constitution of India.

Said view taken by the Division Bench was challenged in Civil Appeal Nos.1918-1919 of 2012 arising out of SLP (Civil) Nos.1827-1828 of 2012 in which this Court was pleased to grant Special Leave to Appeal vide order dated 06.02.2012. Later, the appellant NCCF preferred I.A. No.13111 of 2019 seeking withdrawal of the appeals and a learned Chamber Judge of this Court by order dated 01.08.2019 allowed the appellant to withdraw the appeals.

4. In the submission of Mr. Dhingra, the learned counsel for the petitioner, the decision of the Patna High Court holding NCCF to be "State" within the meaning of Article 12 of the Constitution of India was thus accepted by the NCCF and the appeals were consciously withdrawn. Mr. Dhingra, therefore, submits that in view of the change in the circumstances, especially in the light of withdrawal of the appeal by NCCF, liberty be granted to the petitioners to file appropriate proceedings under Article 226 of the Constitution of India to agitate and claim reliefs prayed by way of substantive prayer (b) in the instant petition.

5. Ms. Madhavi Divan, learned Additional Solicitor General appearing for Union of India, however, submits that in any

case, no relief could be claimed against the Central Government.

6. We need not go into rival contentions. We allow the instant writ petition to be withdrawn, with liberty as prayed for by Mr. Dhingra. All the issues are left open to be decided in an appropriately instituted proceedings.

WRIT PETITION (CIVIL) NO.1221 OF 2020

7. In view of the order passed in Writ Petition (Civil) No.512 of 2017, Ms. S. Janani, learned Advocate appearing for the petitioner prays for withdrawal of this writ petition with similar liberty.

In the circumstances, the writ petition is allowed to be withdrawn, with liberty as prayed for.

.....J.
(UDAY UMESH LALIT)

.....J.
(S. RAVINDRA BHAT)

NEW DELHI,
JANUARY 07, 2022.