

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 201

Case No. : C. W. P.No. 11516 of 2001

Date of Decision : May 04, 2015

Gurmeet Singh and another Petitioners

Vs.

The Fazilka Central Coop. Bank Ltd.
and others Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

* * *

To be referred to Reporters or not ?

Whether the judgment should be reported in the digest ?

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Present : Mr. M. S. Bedi, Advocate
for the petitioners.

Mr. Ashwani Prashar, Advocate
for respondents no. 1 and 2.

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DEEPAK SIBAL, J. :

The petitioners, who were working as Peons in The Fazilka Central Coop. Bank Ltd. (hereinafter referred to as – the respondent Bank), through resolution dated 21.11.1998, were promoted as Junior Clerks. Soon after their promotion, the Administrator of the respondent Bank, through Show Cause Notice dated 03.02.1999, sought to revert the petitioners from

the posts of Junior Clerks to the posts of Peons. The petitioners challenged the said Show Cause Notice by filing a petition before the Registrar, Cooperative Societies, Punjab, which was entrusted to Additional Registrar (G), Cooperative Societies, Punjab, Chandigarh (in short – Additional Registrar (G)) for disposal in accordance with law.

Through order dated 29.10.1999, the Additional Registrar (G) accepted the petition filed by the petitioners and set aside the impugned Show Cause Notice, through which the petitioners were sought to be reverted. The order dated 29.10.1999 passed by the Additional Registrar (G) was challenged by the respondent Bank through a revision petition filed under Section 69 of the Punjab Cooperative Societies Act, 1961 (in short – the Act). Through order dated 20.03.2001, the revision petition filed by the respondent Bank, was accepted by the Additional Secretary, Cooperation (Appeals), Punjab, Chandigarh (hereinafter referred to as – the Additional Secretary). The relevant portion of the order is reproduced below :-

*“I have heard the ld. counsel
for the parties and gone through the record.
I find that the respondents were promoted
as Junior Clerks on 21.11.1998 by the BOD
of the Fazilka Central Coop. Bank when it
was on its last legs violating the Punjab
Cooperative Financing Institutions Service*

Rules. When there is a specific provision that only 5% posts are reserved for matriculates then how the BOD of the Bank was competent to exceed the quota beyond 5%. The appellate authority blatantly erred in observing that there is no provision in the rules fixing such quota for Peons to be promoted as Junior Clerks. It is held that she does not apply her mind to look into the rules to find out as to how much quota is allowed for matriculates for promotion as Junior Clerks. Moreover, I do not agree with the contention of the ld. counsel for respondents that Administrator is not competent to issue show cause notice to revert the respondents as Peons. In this case Administrator acted totally in a bonafide way to upset the decision of the BOD which was totally violative of the rules, hence it cannot be considered in the given circumstances that Administrator passed an order beyond his jurisdiction. In

view of these facts I do find that promotions of the respondents as Junior Clerks were made by the BOD ignoring the relevant provisions of the rules which deserve to be set-aside. Therefore, the revision petition is accepted and it is ordered that the respondents be reverted as Peons immediately.”

A perusal of the above quoted order shows that instead of upholding the action of the Administrator with regard to issuance of Show Cause Notices to the petitioners seeking their reversion, the Additional Registrar (G) himself ordered the reversion of the petitioners. The above referred order dated 20.03.2001, passed by the Additional Registrar (G) has been challenged by the petitioners through the present writ petition.

I have heard counsel for the parties and perused the case file.

The petitioners, who were working as Peons, were promoted as Junior Clerks way back in November 1998. Soon thereafter, through Show Cause Notice dated 03.02.1999, they were sought to be reverted from the posts of Junior Clerks to the posts of Peons. The Show Cause Notice was challenged by the petitioners through a petition filed before the Registrar, Cooperative Societies, Punjab, which was marked to Additional Registrar (G), who, through order dated 29.10.1999, set aside the Show Cause Notice.

The respondent Bank preferred a revision petition under Section 69 of the Act, which was heard and decided through the impugned order dated 20.03.2001, passed by the Additional Secretary. A perusal of the aforesaid order dated 20.03.2001 shows that instead of upholding the action of issuance of the Show Cause Notice, seeking reversion of the petitioners, the Additional Secretary himself ordered reversion of the petitioners. This could not have been done. All that he could do was to uphold the issuance of Show Cause Notice seeking to revert the petitioners and then remit the matter back to the competent Authority to proceed in accordance with law. The Additional Secretary himself could not have ordered the reversion of the petitioners because by doing so, he not only took away a valuable right of the petitioners to represent their case in response to the Show Cause Notice, but also took away their right to challenge the order of their reversion, if any.

In normal circumstances, while setting aside order dated 20.03.2001 passed by the Additional Secretary, I would have remitted the matter back to the competent Authority to proceed with the Show Cause Notice in accordance with law, but in the peculiar facts of this case, where the petitioners have admittedly been serving the respondent Bank as Junior Clerks for last over 16 years and that though during the pendency of the present writ petition, there was no interim direction in favour of the petitioners till 13.10.2014, the respondent Bank itself permitted the

petitioners to work and serve the respondent Bank as Junior Clerks for 16 long years, I consider it just and equitable to direct the respondent Bank to treat the petitioners, for all intents and purposes, as Junior Clerks, from the date of their initial promotion.

The writ petition stands disposed of in the above terms.

No costs.

(DEEPAK SIBAL)
JUDGE

May 04, 2015
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