

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

1. Civil Writ Petition No. 6307 of 2013(O&M)

Date of Decision: December 3 , 2015.

Bikrampal Singh

..... PETITIONER(s)

Versus

The Punjab State Cooperative Agricultural Development
Bank Ltd., Chandigarh and others

..... RESPONDENT (s)

2. Civil Writ Petition No. 7868 of 2013(O&M).

Balbir Singh

..... PETITIONER(s)

Versus

The Punjab State Cooperative Agricultural Development
Bank Ltd., Chandigarh and others

..... RESPONDENT (s)

3. Civil Writ Petition No. 2655 of 2014(O&M).

Sandeep Singh Sodhi

..... PETITIONER(s)

Versus

The Punjab State Cooperative Agricultural Development
Bank Ltd., Chandigarh and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

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

Mr. Parminder Singh, Advocate
for respondents No.1 and 2 (in all writ petitions).

Mr. Manjit Singh Sarao, Advocate
for respondents No.3 and 4 (in CWP No.6307 and 7868 of 2013)
for respondent No.4 (in CWP No.2655 of 2014).

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

This order shall dispose of CWP No.6307 of 2013 (Bikrampal Singh v. Punjab State Cooperative Agricultural Development Bank Ltd. and others), CWP No.7868 of 2013 (Balbir Singh v. Punjab State Cooperative Agricultural Development Bank Ltd. and others) and CWP No.2655 of 2014 (Sandeep Singh Sodhi v. Punjab State Cooperative Agricultural Development Bank Ltd. and others). All the abovesaid writ petitions are being decided together by a common order as they involve an identical issue.

CWP No.6307 of 2013 has been preferred by Bikrampal Singh seeking quashing of order dated 09.01.2013, Annexure P7 passed by respondent No.2 – Managing Director, the Punjab State Cooperative Agricultural Development Bank Ltd. whereby petitioner has been dismissed from service. Notice of motion was issued in this case while taking note of the petitioner's contention that punishing authority in this case is Additional Managing Director. Impugned order of punishment has been passed by the Managing Director, who is the appellate authority as per rules. In this manner, petitioner has been deprived of his right to appeal.

CWP No.7868 of 2013 preferred by Balbir Singh seeks quashing of order dated 09.01.2013, Annexure P4 passed by respondent No.2 – Managing

Director, the Punjab State Cooperative Agricultural Development Bank Ltd. whereby petitioner has been dismissed from service.

CWP No.2655 of 2014 preferred by Sandeep Singh Sodhi seeks quashing of order dated 09.01.2013, Annexure P6 passed by respondent No.2 – Managing Director, the Punjab State Cooperative Agricultural Development Bank Ltd. whereby petitioner has been dismissed from service.

Common thread running through three petitions is passing of impugned orders of dismissal from service by the Managing Director, who is the Appellate Authority as per the Punjab State Cooperative Agricultural Development Bank Service Common Cadre Rules, 1978 (hereinafter referred to as the 'Rules'). Contention of the petitioners is that they have been deprived of their valuable right of appeal.

Specific stand of the respondents in their written statements is that such objection was never raised by the petitioner at any stage. Charge-sheet, Annexure P2 was issued to him on 08.06.2012 under the signature of Managing Director. Show cause notice dated 20.11.2012, Annexure P4 was also issued by the Managing Director.

Furthermore, an alternative efficacious remedy by way of filing an appeal before the Board of Directors challenging order of dismissal is available to the petitioner. It is clarified that as per the Rules, where Managing Director has exercised his power as Punishing Authority, appeal against such an order is maintainable before the Board of Directors. Post of Additional Managing Director (AMD) had fallen vacant on 20.01.2011 and in this situation order of punishment was passed by the Managing Director. It is specifically stated that in case appeal is filed, objection of limitation/maintainability would not be raised

and the matter shall be decided on merits.

Learned counsel for respondents No.1 and 2 relies on decision dated 31.03.2015 in LPA No.692 of 2014 (Amrik Singh v. The Punjab State Cooperative Agricultural Development Bank Ltd., Chandigarh).

Learned counsel for the petitioners however vehemently argues that an appeal before the Board of Directors is not an efficacious remedy in any manner. He refers to Rule 80-B of the Punjab Cooperative Societies Rules, 1963 to submit that Managing Director exercises his power under supervision and control of the Committee therefore, appeal before the Board of Directors is an exercise in futility.

It is further urged that decision dated 31.03.2015 in Amrik Singh's case (supra) is of no avail to the respondents as said appeal was dismissed as withdrawn with liberty to the appellant therein to file an appeal before the Board of Directors. Said is an order passed on the consent of the parties hence, distinguishable.

Learned counsel for the petitioners vociferously argues that impugned order 09.01.2013 is a discriminatory order and violative of fundamental right of the petitioner therefore, writ petition is the only efficacious remedy available to them.

Having heard learned counsel for the parties, it is apparent that an alternate efficacious remedy is available to the petitioner by way of an appeal before the Board of Directors. Respondents have taken a specific stand that though order of punishment has been passed by the Managing Director, an appeal is maintainable before the Board of Directors. Fact that LPA No.692 of 2014 was dismissed as withdrawn, is not of any benefit to the petitioner for the

simple reason that contention of the appellant in that case as well as stand taken by the respondent was noted by the Division Bench and it is thereafter, that appeal was withdrawn. Relevant para of decision dated 31.03.2014 in LPA No.692 of 2014 is reproduced hereunder:-

“The only contention of learned counsel for the appellant is that in the instant case the punishment order has been passed by the Managing Director of respondent-Bank and as per Appendix-3 of the Service Rules in case of a Field officer against the order of Punishing Authority the appeal lies to the Managing Director. Since in the present case, the order of punishment itself has been passed by the Managing Director, therefore, the appellant has been denied the statutory right of appeal.

This contention in our view is without any substance.

In the written statement filed by respondent-Bank, it has been specifically stated that in the instant case though order of punishment has been passed by the Managing Director but in case an appeal is filed against the said order, the same will be heard by the Board of Directors and not by the Managing Director.

In view of the said stand taken in the written statement, learned counsel for the appellant states that he does not want to pursue this appeal and wants to withdraw the same with liberty to file an appeal against the order of punishment within a period of one month.

Dismissed as withdrawn with the aforesaid liberty.

If any such appeal is filed within the said period, learned counsel for respondent undertakes that the same will be considered and decided by the Board of Directors on merit, expeditiously.”

There is no doubt about the jurisdiction of this Court in entertaining such a writ petition but it is equally well settled when an efficacious alternative

remedy is available to the petitioner, interference by this Court in exercise of jurisdiction under Article 226 of the Constitution is not called.

All the three writ petitions are therefore disposed of with liberty to the petitioners to file appeal against the impugned order of punishment passed by the Managing Director, Punjab State Cooperative Agricultural Development Bank Ltd.

In case such appeal/appeals are filed by the petitioners within one month from the date of receipt of certified copy of this order, it is assured by learned counsel for the respondents that objection of limitation will not be raised and same shall be considered and decided expeditiously by the Board of Directors on merit.

December 3, 2015.
'om'

(LISA GILL)
JUDGE