

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

Civil Writ Petition No.14444 of 1994 (O&M)

Date of decision: 28.1.2016

Ashok Kumar and others

... Petitioners

Versus

Registrar Cooperative Societies and another

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

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

None for the respondents.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

1. The petitioners approached this Court against an order of reversion from higher to lower post on which promotional post they had served for about 4 months and odd. This Court issued notice of motion on 6.10.1994 to the respondents on the contention that the post of Area Manager was abolished but not that of Manager.

2. Learned counsel Mr.M.S.Kang appeared in the motion hearing in 1994. He submits that he has been unable to contact his clients despite making best efforts to inform them of the listing of this case for final hearing being an old case. It may be mentioned that on 30.3.1995 the

learned counsel for the respondent had prayed for time to obtain appropriate instructions as to whether the post of Manager does exist in the hierarchy of employment. It is not known what transpired thereafter but the matter was heard and admitted on April 27, 1995. There has been no interim order passed in this case.

3. The stand of the respondents in the written statement filed for contesting the case on merits is that the petitioners were promoted as Managers in respondent CONSTOFED on 2.8.1993 on the basis of a proposed agenda without getting approval of the Registrar, Cooperative Societies, Punjab, for lack of which approval, their promotion orders were withdrawn on 12.11.1993.

4. Since the orders of reversion were passed without hearing the petitioners, they challenged the same in CWP No.14159 of 1993 which was disposed of with a direction to the RCS, Punjab to pass a fresh order after providing them proper opportunity of hearing. Accordingly, the RCS passed the impugned order dated 5.8.1994 [P-7] after hearing the petitioners and examining the record. The representation was rejected and the reversion orders were upheld by the Managing Director of CONSTOFED. In this manner the defect in the proceedings of breach of the principles of natural justice which had led to the reversion had been cured by CONSTOFED upon intervention of this Court.

5. It has been asserted in para. 4 of the written statement on merits that the Registrar, Cooperative Societies, Punjab is empowered to frame service rules and lay down qualifications and conditions of service under which any person may be employed by a cooperative society, just as,

CONSTOFED is. In the absence of service rules, the registered by-laws of the Society are applicable which prescribe that no post can be created without the prior approval of the Registrar.

6. The foundation of the promotion thus was based on a weak premise and if the Registrar did not grant approval, none can be created by this Court. Consequently, this petition is found without merit and is dismissed. However, since the petitioners have not been in touch with their counsel Mr.Kang, then liberty is granted to them to revive this petition in case they feel aggrieved or have anything to show in their favour which may entitle them to relief at this distance of time.

7. A copy of this order be sent to the petitioners and the respondents at the address given in the memo of parties.

(RAJIV NARAIN RAINA)
JUDGE

January 28, 2016
Paritosh Kumar