

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

**207**

**CWP No. 23081 of 2011(O&M)  
Date of decision: 30.09.2016**

Yogesh Kumar

.... Petitioner

Versus

Presiding Officer, Labour Court, Gurgaon and another

.... Respondents

**CORAM: Hon'ble Mr. Justice P.B. Bajanthri**

Present: Mr. Adarsh Jain, Advocate for the petitioner.

Mr. J.P.Sharma, Advocate for respondent No.2.

**P.B. Bajanthri, J. (Oral)**

In the instant writ petition, the petitioner has assailed the award passed by the Industrial Tribunal-cum-Labour Court dated 13.09.2011 vide Annexure P6.

2. The petitioner-Yogesh Kumar was appointed as a Salesman on daily wages basis. As on the date of his appointment, his father Sh. Munna Lal Sharma was the President of The Mohindergarh Cooperative Marketing Society Ltd.-respondent No. 2. In order to regulate service condition of the petitioner on 12.08.2004, resolution was passed to the extent that he was not paid salary for 4½ months and further for obtaining necessary approval in respect of petitioner's continuation. Even on the passing of 2<sup>nd</sup> resolution on 01.12.2004, petitioner's father Sh. Muna Lal was the President of the respondent-society. When the new President was appointed it seems that

services of the petitioner's have been discontinued. Consequently, the petitioner sent a demand notice and was the subject matter before the Industrial Tribunal-cum-Labour Court. The Labour Court decided the reference on 13.09.2011 while taking note of the fact that under the Haryana Cooperative Societies Act and Rules bars the relatives of any member of the committee or any other officer of a Cooperative Society shall be appointed to any of the office of the respondent No.2-Cooperative Society. The Labour court also perused the rule 2(k) of the Haryana Cooperative Societies Rules, 1989 relating to definitions of relative. Thus, the Labour Court has held that the initial appointment of the petitioner itself is void *ab initio* as it violates the provisions of the Haryana Cooperative Societies Act and Rules. Thus, claim of the petitioner has been declined by the Labour Court. Petitioner aggrieved by the Award passed by the Labour Court presented this petition.

3. Learned counsel for the petitioner submitted that he had the right to continue in the post with reference to resolution dated 12.08.2004 and 01.12.2004 vide Annexures P-1 and P-2. Further it was contended that he has rendered 240 days. Therefore, his termination is bad. Consequently, the Labour Court finding is illegal and arbitrary.

4. Per contra, learned counsel for respondent No.2 vehemently contended that the very initial appointment of petitioner is in violation of Haryana Cooperative Societies Act and Rules. There is specific bar relating to appointment of a relative of member of the Society. The petitioner was appointed at the behest of his father who was holding the post of President of the Cooperative Society. Therefore, there is no legal infirmity so as to interfere with the Labour Court award.

5. Heard learned counsel for the parties.
6. Perusal of the records, it is revealed that petitioner is son of Sh. Munna Lal Sharma who was President of the Cooperative Society as on the date when petitioner was appointed till petitioner's services were dispensed. Thus, the Society committed error in appointing the petitioner since it was contrary to Rule 2(k) Haryana Cooperative Societies Rules, 1989. Therefore, initial appointment itself is void *ab initio*. Hence, question of taking into consideration that the petitioner has rendered 240 days and there is a violation of Industrial Disputes Act, 1947 may not be a good ground to interfere with the Labour Court award.
7. Accordingly, petition stands dismissed.

**30.09.2016**

pooja saini

**( P.B.BAJANTHRI )  
JUDGE**

Whether speaking/reasons Yes/No

Whether Reportable: Yes/No