

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

CWP No.19934 of 2014

Date of decision: 12.12.2016

Roop Singh (deceased) through L.Rs.

..Petitioner

Versus

Managing Director, Markfed and another

..Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present: Mr. J.K. Singla, Advocate
for the petitioner.

Ms. Jasleen Kaur, Advocate
for the respondents.

Daya Chaudhary, J.

During pendency of the present writ petition, the petitioner died and subsequently, vide order dated 21.01.2016 passed in CM No.618 of 2016, his L.Rs. were brought on record.

The prayer in the present writ petition is for issuance of a writ in the nature of certiorari for quashing of impugned order dated 05.07.2013 (Annexure P-3) passed by respondent No.1 as the same has been stated to be passed without following the principles of natural justice, without issuing any notice and without giving any opportunity of hearing. A further prayer has also been made for issuance of direction to respondent No.1 to release the salary for the work done by the petitioner for a period of five months after his retirement and to allow the petitioner to rejoin as per extension letter issued by Government.

Briefly, the facts of the case as made out in the present writ

petition are that the petitioner (since deceased) joined the Department of Cooperative Marketing Society-cum-Processing, Rama Mandi, District Bathinda on 08.01.1980. Thereafter, in the year 2008, he along with 34 other employees of the Cooperative Marketing Societies was merged in Markfed in view of order dated 24.12.2008 passed by the Registrar, Co-operative Societies, Punjab Chandigarh. Accordingly, the petitioner joined the Markfed on 24.12.2008 and thereafter, he was retired from service on 28.02.2013. The petitioner was not granted extension whereas he was entitled for the same in view of instructions issued by the State Government on 27.02.2013.

Learned counsel for the petitioner submits that the petitioner was not only eligible but was also entitled to get extension of one year as per Government instructions dated 27.02.2013. Learned counsel further submits that the petitioner even worked for a period of five months after his retirement but the salary for the said period was not given whereas he was entitled for the same. Thereafter, the petitioner was retired from service by ignoring letter dated 27.02.2013 by passing a non-speaking order. Moreover, the impugned order has been passed without giving any opportunity of hearing and without following the principles of natural justice.

In response to notice of motion, reply has been filed by the respondents, which is on record.

Learned counsel for the respondents submits that the post of the petitioner was abolished and he was adjusted in the Markfed. The cadre of the petitioner was declared diminishing cadre and he was not entitled for

any extension. The services of the petitioner along with other employees were merged in Markfed in view of order passed by the Registrar, Co-operative Societies, Punjab, Chandigarh dated 24.12.2008. It was also mentioned in the order that these posts shall stand abolished as soon as any of these employees retires, resigns, dies or terminated in accordance with law. Vide order dated 05.07.2013 passed by Managing Director, Markfed, the petitioner was ordered to have been retired from the services of Markfed w.e.f.28.02.2013 (A.N.). The petitioner was not having any right for extension of service after his retirement and when there was no extension in service of the petitioner, then he was not entitled for salary for the period after his retirement. It was also made clear to him that his extension in service was subject to approval of Board of Directors of Markfed and Registrar of Co-operative Societies. An undertaking was also given by the petitioner and he was allowed to work as his request was pending.

Heard arguments of learned counsel for the petitioner as well as learned State counsel and have also perused the impugned order as well as other documents available on the file.

Undisputedly, the petitioner retired from service of Markfed on 28.02.2013. After his retirement, he made a written request, which was entertained subject to giving of an undertaking that the same was subject to approval of Board of Directors of Markfed and Registrar of Co-operative Societies. Subsequently, the petitioner was not granted extension and he is claiming his salary for the period he has worked with the respondents whereas he not entitled for the same as per the undertaking given by him.

The subsequent claim of the petitioner contrary to undertaking is not

maintainable as he remained on duty as per the undertaking given by him. Moreover, the petitioner has expired during pendency of this writ petition.

Accordingly, there is no merit in the arguments raised by learned counsel for the petitioner and the petition being devoid of any merit is hereby dismissed.

However, learned counsel for the petitioner submits that since the petitioner has died, after death benefits have not been released to his L.Rs. and direction be issued to the respondents to release the same.

By considering the request of learned counsel for the petitioner, the respondents are directed to release the after death benefits for which, the L.Rs. are entitled within a period of two months from the date of receipt of certified copy of this order.

12.12.2016
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(DAYA CHAUDHARY)
JUDGE

Whether speaking/reasoned	√ Yes/No
Whether Reportable	√ Yes/No