

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

CWP No.2939 of 2014

Date of decision: January 07, 2016

Ram Singh and others

...Petitioners

versus

Principal Secretary to Govt. of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Surender Singh Dalal, Advocate,
for the petitioners.

Mr. Samarveer Singh, DAG, Haryana,
for respondent Nos. 1 and 2.

Mr. Rajbir Sihag, Advocate,
for respondent No.3.

RITU BAHRI, J.

By way of present writ petition, the petitioners are seeking quashing of resolution dated 22.01.2010 (Annexure P-8) and letter dated 16.03.2010 (Annexure P-9) with further direction to implement the amendment made in the service Rules called as Common Cadre Rules by the Registrar, Cooperative Societies, Haryana (Annexure P-6).

Petitioners are Class-IV employees working in respondent-bank i.e. the Haryana State Cooperative Apex Bank Ltd, Chandigarh. Respondent No.3-bank is a society registered under the Haryana Cooperative Societies Act, 1984. The State Government has more than 65% of the share capital. The Managing Director of the bank is appointed by the Government, who controls the day to day business of the society. The Registrar, Cooperative

Societies, Haryana is the functionary under the Act who has manifold powers in the conduct of business of the respondent-bank and give necessary directions. Services of the petitioners are governed under the Haryana State Cooperative Apex Bank's Staff Service (Common Cadre) Rules, 1988. The said rules have been framed by the Registrar, Cooperative Societies, Haryana, under Section 37 of the Haryana Cooperative Societies Act, 1984 (for short 'the Act'). Vide Government order dated 02.09.2009/09.09.2009 (Annexure P-4), tenure of the Board of Administrators of Haryana State Cooperative Apex Bank Ltd., Chandigarh, was extended for a period of six months from 23.08.2009 to 22.02.2010. Thereafter, the bank received a representation from Class-IV employees, who were graduates, for making amendment in the Rules and to give quota to graduate Class-IV employees for promotion to the post of Clerk (Annexure P-5). The Board of Administrators passed a resolution on 23.07.2009, vide item No.16 and recommended the following amendment:-

“This was considered and it is resolved that the quota and qualification for promotion from category IV i.e. Record Keepers, Peons, Gunmen to the post of Clerk is amended subject to approval of RCS, Haryana as under:

of the Haryana State Coop. Apex Bank's Staff Service (Common Cadre) Rules, 1988

Category	Existing percentage for promotion from	Proposed percentage for promotion from

Clerk	i) For Matriculate Record Keepers	i) For Graduate Record Keeper/Peon/Gunman = 5% ii) For Matriculate Record Keeper = 5% iii) For Matriculate Peon/Gunman = 10%
	ii) For Matriculate Peon	15%

 ANNEXURE=II of Rule 5 of the Haryana State Coop. Apex Bank's Staff Service (Common Cadre) Rules, 1988.

Category	Existing percentage for promotion	Proposed percentage for promotion
8(a) Clerk/ Cashier	1. Matriculation 2. Atleast 5 years experience as Record Keeper/Peons after passing the matriculation examination	For Record Keeper/Peon/Gunman (5%) 1. Graduation 2. Atleast 5 years experience as Record Keeper/Peon/Gunman <u>For Record Keepers (5%)</u> 1. Matriculation 2. Atleast 5 years experience as Record Keeper after passing the Matriculation examination <u>For Peon/Gunman (10%)</u> 1. Matriculation 2. Atleast 5 years experience as Peon/Gunman after passing the Matriculation examination.

 RCS Haryana be requested to make amendment in the Service Rules.”

Copy of agenda note and resolution thereof are enclosed herewith for perusal.

In view of resolution passed by the BOAs, it is requested to make above amendment in the Rule 8.2 of Annexure-II of Rule 5 of the Haryana State Cooperative Apex Bank's Staff Service (Common Cadre) Rules, 1988 accordingly.”

The Registrar while exercising powers under Section 37 of the Act approved the amendment vide Annexure P-6. Thereafter, the Board of Administrators in its meeting held on 20.10.2009 (Annexure P-7) decided to place the matter for reconsider on this issue again. Finally vide resolution dated 22.01.2010 (Annexure P-8), the Board of Administrators decided to restore the old provisions of Rules for promotion. This resolution was accepted by the Registrar vide letter dated 16.03.2010 (Annexure P-9).

Mr. Surender Singh Dalal, Advocate counsel for the petitioners

has referred to the instructions dated 19.04.1990 (Annexure P-10) issued by

the Registrar, Cooperative Societies, Haryana to all the Managing Directors of Central Cooperative Banks in the State to refrain from reviewing their decisions after a lapse of considerable long time. He has argued that once the Registrar had exercised his powers under Section 37 of the Act and made amendment in the Rules, he had no power to review the same.

Upon notice, written statement on behalf of respondent No.2 has been filed taking a stand that necessary amendment had been rightly made by the Registrar while exercising powers under Section 37 of the Act. However, in a subsequent meeting dated 20.10.2009, the Board of Administrators confirmed all the resolution, except resolution Nos.4, 6 and 16. Subsequently, in its meeting dated 22.01.2010, the Board of Administrators resolved that the Registrar be requested to restore the provisions of rules as existing earlier for promotion to the post of Clerk.

Learned counsel for respondent No.2 has referred to Rule 58 of the Haryana State Cooperative Apex Bank's Staff Service (Common Cadre) Rules, 1988 to contend that the Board of Administrators are competent to amend, add or delete the service rules subject to approval of the Registrar, Cooperative Society. Section 37 of the Act will not operate as a bar for making any amendment or deletion of Service Rules of the Society. Once, a resolution is passed by the Board of Administrators, the Registrar, under Section 37 of the Act, is competent to accept any proposal for amendment or even deletion or addition or any Rule.

It is not a dispute between the parties that as per by-laws 38, the power of the Board of Directors includes framing of service rules for the staff of the bank. Relevant bye-law 38 (viii) is reproduced as:-

“(viii) To frame service rules for the staff of the bank as per provisions of the Act and Rules.”

For reference, Rule 58 of the Haryana State Cooperative apex Bank's Staff Service (Common Cadre) Rules, 1989 is reproduced as under:-

58. AMENDMENTS OF RULES:-

The Board of Directors shall be competent to amend, add or delete the Service Rules subject to approval of Registrar Cooperative Socs. However, no new regulations or alteration in the existing Service Rules shall operate to reduce the scale of pay of an employee on which he is entitled to draw pay in substantive capacity on the day of date on which the new rules or alteration comes into force.

A combined reading of By-law 38 and Rule 58 of the Act would lead to a conclusion that the Board of Directors are competent to amend or delete any service rules subject to approval of the Registrar, Cooperative Society. A reading of the above said by-laws and Rule does not make out that the Board of Directors/Administrators cannot review or delete any rule relating to the Service Rules of the Society.

In the present case, on a representation made by the petitioners, the Board of Administrators, vide its meeting held on 23.07.2009 (Annexure P-5), had passed a resolution for making amendment in the rules.

In the written statement filed by respondent No.3, it has been stated that issue of quota and qualification along with proposed amendment in the relevant rules came up for confirmation in the meeting of the Board of Administrators held on 20.10.2009, wherein it was decided to reconsider the said issue in the next meeting of the Board, as it might lead to quota within quota. The next meeting of the Board was held on 22.01.2010, wherein it was resolved that respondent No.2 be requested to restore the provisions of Rules as it existed earlier. Thereafter, vide Annexure P-9, the Registrar had accepted the same resolution and restored the old Rules, which did not invite for a special quota for graduate Peons for further promotion to the post of

Clerk.

After going through the pleadings of the parties, this Court is of the view that Resolution dated 22.01.2010 (Annexure P-8) has been passed in accordance with By-law 38 and Rule 58 of the Haryana State Cooperative Apex Bank's Staff Service (Common Cadre) Rules, 1989. Therefore, no ground is made out to interfere therein.

Dismissed.

(RITU BAHRI)
JUDGE

January 07, 2016.
ajp