

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.7518 of 2014

Date of Decision:- 04.10.2016.

Balbir Singh

.....Petitioner

Versus

The Deon Co-op Agriculture Service Society Limited and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. N.C. Kinra, Advocate for the petitioner.

Mr. Inderjit Sharma, Advocate for respondent No.1.

Mr. Neeraj Yadav, AAG, Punjab.

P.B. BAJANTHRI, J. (Oral)

1.) In the instant writ petition, the petitioner has assailed the award passed by the Industrial Tribunal dated 10.9.2013 (Annexure P-10). The petitioner was appointed as a Chowkidar on 13.1.1998 and he was drawing salary of ₹ 600/- per month. On 30.5.2000, he was promoted as Sewadar and was drawing salary of ₹ 4,200/- per month. On certain audit objections relating to appointment and promotion of the petitioner, the petitioner was reverted from the post of Sewadar to that of Chowkidar on 26.8.2002. Thereafter, petitioner's services were terminated on 25.6.2003 with reference to the audit objection. Order of termination is subject matter before the Industrial Tribunal, Bathinda. On 10.9.2013, Industrial Tribunal declined to grant relief to the petitioner. Thus, the present petition has been

presented.

2.) Learned counsel for the petitioner submitted that petitioner was appointed as a Chowkidar and further he was promoted. Thereafter, his services have been reverted due to audit objection. The audit objection is relating to without approval of the Registrar, petitioner has been appointed and further promoted. Based on the aforesaid reason, his services have been terminated on 25.6.2003. Therefore, the Industrial Tribunal has committed an error. When the petitioner was appointed and promoted to next higher cadre for termination necessary inquiry is required. Without holding an inquiry, his services have been terminated. It was further submitted that petitioner is an illiterate. The respondent-Society have taken signature on the resignation letter. Consequently, the same has been accepted by means of resolution. Therefore, there is a non-compliance of Section 25-F of the Industrial Disputes Act, 1947. The Tribunal failed to appreciate the above facts and circumstances. Hence, the Industrial Tribunal Court award dated 10.9.2013 is liable to be set aside.

3.) Per contra, learned counsel for the respondent submitted that the very initial appointment of the petitioner was not in accordance with law. No advertisement has been issued for appointing him and further for the purpose of appointing Chowkidar/staff of the Society, necessary approval from the Registrar of Cooperative Society is a mandatory which was not taken by the Society at the time of appointing the petitioner in the year 1998. That apart, the petitioner himself has submitted resignation. The same has been accepted by means of resolution. Therefore, there is no infirmity in the award passed by the Labour Court. Writ petition is liable to

be dismissed.

4.) Heard learned counsel for the parties.

5.) Admittedly, the petitioner was not appointed in accordance with law. Therefore, further promoting him and reverting him is not in accordance with law. Consequently, his termination is in order for the reasons that respondent-Cooperative Society is a public institution and for appointing staff, Society is required to advertise the post. Without advertising the post, staff of the Society cannot be filled up that too when there is a mandatory provision that Registrar of Cooperative Society has to approve the proposal to fill up various posts in the Society. The Society have committed error in appointing the petitioner. Therefore, question of reinstatement of the petitioner do not arise. The Society-respondents have committed an error in appointing, promoting, reverting and terminating the petitioner. In other words, the petitioner has been harassed unnecessarily. Therefore, the Society is directed to pay compensation of ₹ 1,00,000/- to the petitioner. The compensation shall be paid to the petitioner within a period of three months from today.

6.) Petition stands disposed of.

(P.B. BAJANTHRI)
JUDGE

October 04, 2016.
sandeep sethi

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.