

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No.2005 of 2014(O&M)
Date of Decision: 04.12.2017

Rajwant Singh & others

--Petitioners

Versus

Registrar Co-op Societies, Punjab
and others

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. M.S. Kang, Advocate for the petitioners.

Mr. Avinit Avasthi, A.A.G., Punjab.

TEJINDER SINGH DHINDSA.J (Oral)

Petitioners at the point of filing the instant writ petition were Class-III employees of the respondent-Primary Cooperative Agriculture Service Society. Petitioners no.1 and 2 were the employees of respondent no.2-The Behram Sarishta Cooperative Multi-Purpose Agriculture Service Society Ltd., petitioner no.3 an employee of respondent no.3-The Binpalke Cooperative Multi-Purpose Agriculture Service Society Ltd. Binpalke and petitioner no.4 an employee of respondent no.4-The Dugri Cooperative Multi-Purpose Agriculture Service Society Ltd.

Instant petition has been filed seeking the issuance of a Writ of Certiorari for quashing of memo dated 20.5.2013 issued by the office of Registrar, Cooperative Societies, Punjab on the subject pertaining to clarification regarding increase the age of retirement by one year of the employees of the Govt.

Counsel appearing for the petitioners would place heavy reliance on communication dated 4.4.2013 (Annexure P-2) and would contend that in terms of such communication the age of retirement stood

enhanced by one year of employees of Public Sector Undertaking, Autonomous Undertaking and Apex Cooperative Societies as also the Central/Primary Cooperative Societies. Counsel contends that communication dated 4.4.2013 (Annexure P-2) would tantamount to a change of the service conditions of the petitioners and by virtue of which the petitioners were vested with a right of enhancement of age of retirement and consequently what stands granted by virtue of Annexure P-2 cannot be nullified by virtue of issuance of subsequent memo dated 20.5.2013 (Annexure P-3. Another submission raised is that since communication dated 4.4.2013 (Annexure P-2) vested a substantial right in the petitioners the same could not have been divested without granting an opportunity of hearing.

Counsel for the parties have been heard at length.

In the considered view of this Court, the claim set forth in the instant petition is not well founded.

Service conditions of the petitioners would be governed by the Punjab State Cooperative Agriculture Service Societies, Service Rules, 1997 (herein after to be referred as the Service Rules, 1997). Rule 19 would be relevant to the issue at hand and is reproduced hereunder:-

“(19) Retirement

(a) Every employee of the society shall retire on attaining the age of 60 years except for the peon-cum-chowkidar who shall retire on attaining the age of 62 years.

Age of retirement of class 'C' employees of the State Govt. is 58 years and that of class 'D' employees is 60 years. By amending rule 19(a) w.e.f. 23.5.2001 retirement age of those employees to be recruited thereafter was brought at par with that of Government employees.”

A bare perusal of the afore reproduced provision would make it clear that age of retirement of each employee of the society is stipulated as 60 years except for Peons-cum-Chowkidars, who are to retire on attaining the age of 62 years. Furthermore, the rule itself notices that the age of retirement of Class 'C' employees of the State Govt. is 58 years and that of Class 'D' employees is 60 years. By virtue of an amendment under Rule 19 (a) w.e.f. 23.5.2001 retirement age of such employees to be recruited subsequent to 23.5.2001 was brought at par with that of Govt. employees.

The petitioners herein were recruited prior to 23.5.2001.

The communication dated 4.4.2013 (Annexure P-2) cannot be construed as an amendment to Rule 19 so as to vest in favour of the petitioners any benefit as regards enhancement of age. This would be apparent from the following recital in the communication dated 4.4.2013 itself and to the following effect:-

“Along with this the concerned institutions would also check if there is any need to amend the Service Rules for enhancing the age of retirement by one year and submit their proposal in this regard to this office immediately.”

Under such circumstances, the prayer made by counsel that a vested right in law is sought to be taken away by virtue of issuance of impugned memo dated 20.5.2013 (Annexure P-3), cannot be accepted.

The uncontroverted factual position is that the petitioners as Class-III employees have superannuated on completion of 60 years of age as per Rule 19 of the Service Rules, 1997.

At this stage, counsel appearing for the petitioners would make an attempt to impress upon this Court that there are averments made in para 5 of the writ petition that the communication dated 4.4.2013 (Annexure P-2)

amounts to amendment of the Service Rules and which has not been specifically denied in the written statement filed to the writ petition.

Even if that be so, for any decision to be taken as regards enhancement of retirement age, there has to be a specific amendment to the rule governing the age of superannuation and by following due procedure. Pleadings on record are completely silent as regards any amendment actually having taken place. Rule 19 as it stands as of date is the same as has been reproduced and noticed herein above in this order.

Under such circumstances, no interference in the matter is called for.

Petition is dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

04.12.2017

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No