

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

CWP No.15944 of 2012 (O&M)

Date of decision: 28.09.2018

Bikkar Singh

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr. K.S. Dadwal, Advocate for the petitioner(s)

Ms. Sunint Kaur, AAG Punjab.

Mr. Harit Sharma, Advocate for respondent No.4.

Jitendra Chauhan, J. (Oral)

By way of the present petition, the petitioner seeks quashing of order dated 08.10.2004 (Annexure P-15) passed by respondent No.4 whereby the services of the petitioner were terminated, order dated 17.05.2007 (Annexure P-16) passed by respondent No.3, order dated 06.08.2009 (Annexure P-18) passed by respondent No.2 and order dated 09.01.2012 (Annexure P-19) passed by respondent No.1 whereby the appeal and revision petitions were dismissed.

The petitioner joined respondent No.4 as Clerk cum salesman on 01.10.1980. He was promoted to the post of cashier in the year 1992 and further to the post of Secretary, however, on the request of the petitioner, he was allowed to look after the affairs as cashier. However, subsequently, vide resolution dated 11.12.2001, respondent

No.4 demoted the petitioner from the post of cashier to the post of salesman.

On behalf of the petitioner, it is asserted that respondent No.4 without issuing any show cause notice or holding any enquiry demoted the petitioner, vide resolution dated 11.12.2001. The petitioner has assailed the act of respondent No.4 before respondent No.3 whereby the operation of resolution dated 11.12.2001 had been stayed but despite the order passed, the petitioner was not allowed to join as cashier on the ground that he had already been placed under suspension. Thereafter, resolution dated 11.12.2001 was upheld by respondent No.3, vide order dated 10.04.2002. Aggrieved against the same, the petitioner preferred a revision before respondent No.2 which was accepted and order dated 10.04.2002 was set aside, by way of order dated 14.02.2003 (Annexure P-7). Against the order dated 14.02.2003, respondent No.4 filed a revision petition under Section 69 of the Punjab State Cooperative Societies Act, 1961 which was accepted by respondent No.1, vide order dated 08.06.2004 (Annexure P-8) on the basis of which, respondent No.4 served notice upon the petitioner to appear on 23.08.2004, failing which his services are liable to be terminated. The petitioner filed reply to the show cause notice, however, respondent No.4 without taking into consideration the reply dismissed the petitioner from service vide impugned resolution dated 08.10.2004 (Annexure P-15).

On the other hand, learned State counsel submits that the impugned orders were passed after affording proper opportunity to the

petitioner, whereas, learned counsel for respondent No.4 has submitted that the petitioner was promoted to the post of Secretary on 31.10.1999, however, he refused to discharge the duties of Secretary citing certain domestic problems. There is no difference between the post of the salesman and the cashier; the pay scale of both the posts are same. The petitioner as a cashier was required to issue receipts of payments received by him but the same was not done by him, therefore, the petitioner was assigned the work of salesman, however, the same was not acceptable to him against which he filed an appeal before the competent authority which was dismissed by holding that the competent authority is take any work from any employee of any seat particularly when there is no difference in the pay scale of the posts.

Heard learned counsel for the parties and perused the record.

The petitioner joined as Clerk cum salesman on 01.10.1980 with respondent No.4. Subsequently, he was promoted to the post of cashier in the year 1992 and thereafter to the post of Secretary on 31.10.1999, however, he remained holding the post of cashier. The only allegation against the petitioner is that as a cashier he was unable to issue the receipts due to overload of work and further he did not accept the assigned duties of salesman after the charge of cashier had been taken away from him vide resolution dated 11.12.2001. Except this, there is nothing adverse against the petitioner like embezzlement of funds etc. The petitioner who had served respondent No.4 for more than 20 years was paid only a meagre amount of Rs.92,000/- towards subsistence

allowance. Respondent No.4 in its reply has admitted that on account of overload, the petitioner failed to issue receipts against the payment and it is not the case that the payment was not credited in the society's account.

Keeping in view the above, the present petition is allowed. The respondents are directed to reinstate the petitioner into service and pass on the the admissible relief in favour of the petitioner within a period of three months from the date of receipt of a certified copy of this order.

28.09.2018

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(JITENDRA CHAUHAN)
JUDGE

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