

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

CWP No.21807 of 2014.

Date of Decision: 15.03.2018.

Harpal Singh and another

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. H.S. Saggu, Advocate,
for the petitioners.

Mr. Amit Mehta, Sr. DAG Punjab.

Mr. Parminder Singh-I, Advocate,
for respondent Nos. 1 to 3.

JITENDRA CHAUHAN.J.

This civil writ petition has been filed for quashing the orders dated 31.08.2012 (Annexure P-4 and P-5) passed by respondent No.1 vide which the pay and rank of the petitioners has been reduced.

It is contended that petitioner Nos.1 & 2 had been working as Senior Managers in their respective Cooperative Marketing Societies Limited, Budhlada, District Mansa and Garhshankar, District Hoshiarpur in the pay scale of Rs.7220-11660 and were drawing basic pay of Rs.7220/- and Rs.8100/- respectively as per last pay draw certificates (Annexures P-2 and P-3). In the year 2008, the Government of Punjab had decided to merge 27 Cooperative Marketing Societies in various Districts of Punjab with Markfed vide order dated 24.12.2008 issued by Registrar, Cooperative Societies (for short “the

RCS”), Punjab, Chandigarh/respondent No.4 (Annexure P-1). In the order dated 24.12.2008, it was stipulated that the pay, allowances and posts held by the employees in their respective societies shall be protected on their merger with the Markfed. After merger, the petitioner Nos. 1 & 2 were adjusted against the posts of Field Officers under District Managers, Mansa and Hoshiarpur respectively. As per order dated 20.02.2009, the employees were ordered to be absorbed in Markfed in equivalent rank and pay scales. However, instead of granting pay scale of Rs.7200-11660, the petitioners were allowed lower pay scale of Rs.5800-9200 vide impugned orders dated 31.08.2012 (Annexures P-4 & 5) on the premises that there was no post of Senior Manager in the Society. It is contended that the impugned orders (Annexures P-4 & 5) are in violation of merger order (Annexure P-1). It is further contended that similarly situated one person Sandeep Asija has been allowed pay scale of Rs.5480-8925 vide order dated 12.02.2014 (Annexure P-8).

On the other hand, it is contended by the learned counsel for respondent Nos. 1 to 3 that petitioner No.1 was promoted as Manager in the pay scale of Rs.5800-9200 while he was working in the Cooperative Marketing Societies. He was further promoted to the post of Senior Manager in the pay scale of Rs.7220-11660 in violation of the rules of Cooperative Marketing Societies as there was no sanctioned post of Senior Manager in the Society and for creation of said post, approval of RCS, Punjab was required, however, as no

approval had been obtained from the RCS, petitioner No.1 was entitled for the protection of his pay in the pay scale of Rs.5800-9200/- with effect from 01.10.2008 as Manager and his services were adjusted against the equivalent post i.e. Field Officer.

As regards petitioner No.2, he was promoted as Manager and was allowed pay scale of Rs.5800-9200 with effect from 17.06.2005 vide resolution dated 12.06.2005. He was promoted as Senior Manager and was allowed pay scale of Rs.7220-11600 vide resolution dated 04.08.2008. At the time of merger, he was drawing basic pay of Rs.8120/-. There was no post of Senior Manager in the erstwhile Cooperative Marketing Society, therefore, he was entitled for protection of his pay in the pay scale of Rs.5800-9200 with effect from 17.06.2005. Accordingly, his pay was fixed and protected and his services were adjusted against the equivalent post of Field Officer.

So far as the case of one Sandeep Asija is concerned, he was merged with Markfed as Salesman as approval for creation of post of Assistant Manager had not been accorded by the RCS. Later on, services of Sandeep Asija were merged against the post of Field Officer in the pay scale of Rs.5480-8925 which he was already drawing in CMC Jalalabad vide order dated 12.02.2014 (Annexure P-8).

Heard.

It is to be noticed that the petitioners had been working in the Society. Their department was merged in the Markfed.

At the time of merger, they were holding posts of Senior Managers.

Later on, it came into the light that the promotion was not valid as there was no sanctioned post and the approval of the RCS had not been obtained, therefore, they were adjusted against the equivalent post of Field Officer in the pay scale of Rs.5800-9200/- The services of Sandeep Asija were also merged against the post of Field Officer in the pay scale of Rs.5480-8925/-.

No benefit can be allowed to an employee against the rules. The State is at liberty to initiate appropriate proceedings against the official who allowed the promotion to the petitioner to the post of Senior Manager without the approval and sanction of the Registrar, Cooperative Societies.

In view of above, there is no scope to interfere in the impugned orders (Annexues P-4 and P-5). Consequently, the present writ petition is dismissed.

15.03.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No