

CWP No.3292 of 2018

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

Sr. No.109

**Civil Writ Petition No.3292 of 2018
DECIDED ON: April 03, 2018**

**THE SEKHWAN MULTIPURPOSE COOPERATIVE
AGRICULTURAL SERVICE SOCIETY LTD. (MPCASS), VPO
SEKHWAN, TEH. ZIRA, DISTRICT FEROZEPUR.**

..PETITIONER

VERSUS

**THE JOINT REGISTRAR COOPERATIVE SOCIETIES,
FEROZEPUR DIVISION, FEROZEPUR AND OTHERS**

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Harbans Sharma, Advocate,
for the petitioner.

JASPAL SINGH, J.

The Sekhwan Multipurpose Cooperative Agricultural Service Society Ltd. (for short 'Society'), VPO Sekhwan, Tehsil Zira, District Ferozepur – petitioner has preferred instant civil writ petition being aggrieved against the order dated 24.08.2017 (P-16) passed by Joint Registrar Cooperative Societies, Patiala, whereby petition under Section

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69 of the Punjab Cooperative Societies Act, 1961 (for brevity 'Act, 1961') read with Rule 28 of the Punjab Cooperative Societies Rules, 1963 (for short 'Rules, 1963') filed by respondent No.4-Jora Singh has been allowed and petitioner's-Society as well as Assistant Registrar Cooperative Societies, Zira, District-Ferozepur-respondent No.3 were directed to release the retirement benefits to the petitioner-Zora Singh as per Service Rules, within a period of three months from the date of receipt of a certified copy of said order.

2. Assailing the impugned order dated 24.08.2017 (P-16), it has been argued with vehemence by learned counsel for the petitioner that same is not sustainable in the eyes of law and is liable to be set aside/quashed. Firstly, revision petition filed by respondent No.4-Zora Singh, which has been accepted by the petitioner in an arbitrary manner, is violative of the Act, 1961 and Rules, 1963 as well as violation of the law laid down by Full Bench of this Court rendered in ***Jasbir Singh & ors. vs. Commissioner (Appeal), Jalandhar Division & ors., 2011 (3) PLR 545***, which provides that no revision petition under the Act, 1961 is maintainable particularly when no order has been passed by any authority.

3. Learned counsel for the petitioner has submitted that learned Joint Registrar Cooperative Societies, Patiala has not taken any decision on the maintainability of the revision petition under the Act, 1961 and Rules, 1963 in view of the aforesaid judgment rendered by this Court despite the fact that a specific objection was taken in this regard by the petitioner; that Joint Registrar has wrongly concluded that the respondent No.4 had requested to resign, whereas he had already completed 60 years

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of service as per Punjab Cooperative Agriculture Service Society Employee Service Rules, 1997 (for short 'Rules, 1997) on 11.01.2010, as such, the question of resignation did not arise. Similarly, Joint Registrar has wrongly concluded that respondent No.4-Zora Singh worked upto 13.03.2013 as per the Resolution of the Society, but has failed to consider that fraud played by respondent No.4-Zora Singh in the service book in his hand writing whereby he changed his date of birth from 12.01.1950 to 12.01.1956. However, this Court has given an anxious thought to the aforesaid submissions/contentions raised by learned counsel for the petitioner, but does not find any legal and factual force therein.

4. It is abundantly clear from the record and pleadings of the parties that respondent No.4-Zora Singh served the petitioner's-Society for a period of about 35 years and as per Rules, 1997, he is entitled to get the retiral dues. But for the reasons best known to the petitioner's-Society, respondent No.4-Zora Singh is approaching different authorities as well as this Court for disbursement thereof.

5. As far as maintainability or non-maintainability of the petition under Act, 1961 and Rules, 1963 is concerned, the mere fact that no order was passed by the Subordinate Officer to the Joint Registrar who passed the impugned order dated 24.08.2017 does not ipso facto mean that he was not competent to redress the grievances projected by the petitioner.

6. Here it would be pertinent to mention that when no retiral benefits were released in favour of petitioner-respondent No.4 on his retirement, he approached this Court by way of CWP No.7406 of 2015 to claim his retirement benefits. The said petition was disposed of by this

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Court vide order dated 10.05.2017 with direction to the petitioner-respondent No.4 in the said case, to approach the concerned authorities for redressal of his grievances under the Act, 1961. It was only thereafter, petitioner-respondent No.4 was preferred the petition under the Act, 1961 and Rules, 1963 before Worthy Registrar Cooperative Societies, Punjab, Chandigarh, which was subsequently accepted. Though, the allegations have been leveled by the petitioner's-Society that petitioner-respondent No.4 changed his date of birth by making a wrong entry in his service book and that in connection thereof, an FIR No.100, dated 30.05.2013 was registered at Police Station Zira, but till date no adverse order has been passed. There is no departmental inquiry either pending or disposed of against the petitioner-respondent No.4. Thus, there was no reason to withhold the retiral benefits of the petitioner-respondent No.4.

7. As far as, service of the petitioner-respondent No.4 beyond the date of his retirement is concerned, his services were availed of and was allowed to continue as Secretary till the appointment of regular employee and ultimately, he resigned on 13.03.2013. It would also be pertinent to mention here that when a dispute was raised by the petitioner's-society, even petitioner has deposited in cash a sum of Rs.3,73,816/- on 29.03.2013 in the account of petitioner's-Society. But despite the fact that no financial benefits accrued to petitioner-respondent No.4 on the date of his retirement has been released/disbursed to him, which is nothing but an high-handedness of the petitioner's-Society. Even at present, instead of Honoring the order passed by the Joint Registrar, Cooperative Societies, Patiala, which has been impugned through instant

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petition, same has been challenged through instant petition just for the simple reason that no order was passed by the said Society against which revision petition was pending Rather, at this juncture, this Court is of the considered view that filing of petition in pursuance of the order dated 10.05.2017 passed this Court vide which previous revision petition filed by the petitioner-respondent No.4 bearing No.29 of 2017 was disposed off, the same was legally maintainable and order has been rightly passed by the Joint Registrar, Cooperative Societies, Patiala, which calls for no interference by this Court especially in the circumstances that it does not suffer from any illegality, infirmity or impropriety, rather preferring of the instant petition is nothing but an outcome of the ill-will of the Society and its Members of the office bearers with petitioner-respondent No.4.

8. In the light of what has been discussed above, this Court does not find any merit in the instant petition. It stands dismissed.

9. No order as to costs.

April 03, 2018

Ankur

**(JASPAL SINGH)
JUDGE**

Whether speaking/reasoned

Yes

Whether reportable

Yes/No