

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 5793 of 2008**

- Radhe Mohan Mishra, S/o Shri Rambodh Mishra, aged about 43 years, R/o Shanti Nagar Ward, Jagdalpur, District Bastar (CG)

---- Petitioner**Versus**

1. Sahkari Vipnan Sanstha Evam Kisan Rice Mill, Jagdalpur, through the Manager Sahkari Vipnan Sanstha, Jagdalpur (CG)
2. The Registrar Co-Operative Societies Chhattisgarh, Raipur (CG)
3. The Joint Registrar Cooperative Societies, Chhattisgarh, Raipur (CG)
4. The Deputy Registrar, Cooperative Societies, Chhattisgarh, Raipur, District Raipur (CG)
5. Shri Ishwarchandra Rai, S/o Sitaram Rai, Assistant Accountant, Sahkari Vipnan Sanstha Evam Kisan Rice Mill, Jagdalpur.

---- Respondent

For Petitioner : Shri Prafulla Bharat with Shri Keshav Dewangan, Adv.
For Respondent No.1 : Ms. Rajkumari Yadav on behalf of Manoj Mishra, Adv
For Respondent/State : Shri SK Mishra, Panel Lawyer.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****04/07/2019 :**

1. The petitioner was appointed as Part Time Salesman for the fair price shops run by the respondent Cooperative Marketing Society Limited, Jagdalpur, District Bastar on 1.8.1991. He was removed from service by offering payment of wages for one month vide order dated

4.10.2006 on the ground that fair price shops allotted to the society having been withdrawn, there is no work available, therefore, his services are no longer required. Challenging the said order, the petitioner moved a dispute before the Deputy Registrar, Cooperative Society, which was allowed on 5.6.2007. However, the appeal preferred by the Society before the Joint Registrar was allowed on 17.12.2007 (Annexure-P/2) and thereafter the petitioner's second appeal has been rejected by the Additional Registrar, Cooperative Society by the impugned order dated 9.7.2008.

2. It is argued that another salesman Ishwarchandra Rai was appointed subsequent to the petitioner in the year 1993, yet he was promoted and the petitioner was removed from service, therefore, the petitioner's removal is arbitrary and illegal.
3. Perusal of the papers available on record would indicate that the said Ishwarchandra Rai was promoted as Assistant Accountant on 25.6.2004. There is no material that challenging the said promotion of Ishwarchandra Rai, the petitioner raised any dispute under the Cooperative Societies Act, 1960 before the Deputy Registrar. When he was removed from service on account of closure of the shop, the petitioner challenged his removal on the ground that principle of first come last go has not been followed.
4. Having heard learned counsel for the petitioner, present is not found to be a fit case for interference for the reason that as on date of promotion of Ishwarchandra Rai on 25.6.2004, the society was operating number of fair price shops, however, when the State

Government issued an amendment in the Public Distribution System (Control) Order, 2004, restricting allotment of only 3 shops in favour of cooperative societies or any other allottee, there was no option left for the licencing authority under the Control Order, 2004 but to cancel the allotment of shops over and above 3 shops. In compliance with the statutory order issued by the State Government, the Collector, Jagdalpur issued an order (Annexure-R/2) on 10.4.2006 canceling the allotment of fair price shops of the petitioner which are in excess to the 3 shops. As salesmen were not required because of closure of the shops, the petitioner's claim that he should be retained in service despite there being no work has no force. It is not a case where the petitioner was removed by casting stigma or on charges of misconduct. He was offered one month wage/salary at the time of removal from service. Even otherwise, the petitioner was part time salesman and there is no material that his services were regularized at any point of time.

5. For the foregoing, the Writ Petition being bereft of any substance deserves to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Barve