

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

Sr. No.201

**CWP-24093-2015
DECIDED ON: 14.10.2019**

NAVPREET SINGH

..PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. I.S. Saggu, Advocate for the petitioner.

Mr. P.S. Bajwa, AAG, Punjab.

Mr. H.S. Bedi, Advocate,
for respondent No.7.

ARUN MONGA, J. (ORAL)

Impugned herein is Special Audit Report dated 24.03.2015 (Annexure P-6), orders dated 07.07.2015 (Annexure P-7) passed by an Inspector and dated 07.10.2015 (Annexure P-8) passed by the Assistant Registrar Cooperative Societies, Ludhiana West, ostensibly in suo motu exercise of powers directing respondent No.7-society to recover an amount of Rs.1,41,976/- from the petitioner on account of the financial discrepancy pointed out in the audit report.

2. I have heard the rival contentions of the learned counsel appearing for the respective parties and have perused the return filed on behalf of respondent No. 7. A perusal of the stand taken by the society in its return reflects that the society had passed a resolution for appointment of the petitioner as salesman and sought necessary approval from the competent authority i.e. Joint Registrar, Cooperative Society.

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3. In pursuance thereof, Deputy Registrar, Cooperative Society, Ludhiana recommended the case of the petitioner to the Joint Registrar and vide letter dated 24.08.2012, the necessary approval was granted to the society for appointment of the petitioner as salesman on DC rates. It is further submitted that after the retirement of the Secretary of the society, the petitioner was given the charge of the said post. Given that there was huge workload and involved extra duty hours, the society resolved vide resolution 01.03.2013 to pay an additional amount of Rs.8,000/- per month in addition to his salary as salesman on DC rates. It is this additional amount, which was paid to the petitioner that was directed to be recovered from the petitioner pursuant to Special Audit Report, which is stated to be wrongly prepared as per return of respondent No.7, para 12 thereof.

4. Before advertng on merits of the case, on a pointed query posed by the Court, learned State counsel was unable to give any satisfactory response as to which provision of the Act and/or Rules framed thereunder, empowers Inspector or the ARCS to pass the impugned orders.

5. I am of the view that the impugned orders have not been passed by the competent authority and they over-stepped their jurisdiction vested under Act and Rules, *ibid*. On that short ground, the impugned orders are not sustainable.

6. As regards the merits of the case, once the society had passed the resolution resolving payment of Rs.8,000/- in view of the workload assigned to the petitioner especially, in view of the fact that he was not in regular pay scale as salesman and was being paid on DC rates on a consolidated salary of Rs.7695/-, the society was well within its rights to compensate the petitioner for the extra workload.

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7. Perusal of the return filed on behalf of the contesting respondents No.1 to 6 reflects that the same does not render any explanation to the aforesaid position. A bald plea has been made in the return saying that the writ petition is liable to be dismissed as alternative remedy by way of statutory appeal and revision is available to the petitioner.

8. A perusal of the provisions of the Act and Rules reflect that since the very impugned orders have been passed by the incompetent authorities, therefore, as per the Section 68 which provides for appeal, the said orders are not appealable. Since the order is not appealable, there is no question of remedy of revision being there. Seen from any angle, the impugned orders dated 07.07.2015 (Annexure P-7) as well as order dated 07.10.2015 (Annexure P-8) are not sustainable.

9. Writ petition is accordingly allowed. Impugned orders dated 07.07.2015 (Annexure P-7) as well as order dated 07.10.2015 (Annexure P-8) are set aside with all consequential benefits to the petitioner.

14.10.2019

Ankur

**(ARUN MONGA)
JUDGE**

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No