

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

CWP No.3730 of 2014

Date of Decision: 05.02.2019

Manoj Kumar Viswakarma

.....Petitioner

Vs.

Registrar, Coop, Societies Haryana and others.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.R.S.Panghal, Advocate, for the petitioner.

Mr.Hitesh Pandit, Addl.A.G.Haryana.

Mr.Jagdish Manchanda, Advocate, for respondent No.3.

Mr.Pardeep Solath, Advocate, for respondents No.4 and 5.

Mr.K.S.Banyana, Advocate, for respondent No.6.

RITU BAHRI, J. (ORAL)

Petitioner is seeking for issuance of a writ in the nature of Quo Warranto questioning the Authority of appointment of the respondent No.6 to the office of respondent No.3.

The brief facts of the case are that the respondent No.6 namely Samaya Pal was working as a Steno-typist in the office of respondent No.5 i.e. Rewari Central Co-operative Bank Limited, Near Trama Centre, Circle Road, Rewari, in the pay scale of Rs.9300-34800 +3300 GP and after getting 2nd ACP on 01.09.2012, the respondent No.6 was in pay scale of Rs.9300-34800 +3600 GP. Vide resolution dated 31.05.2007 (Annexure R4/2_), it was accepted by the board of Director of the Rewari Central Cooperative Bank Ltd., there was provision for the post of P.A. And M.D in

Cooperative Banks. Vide letter dated 03.01.2009 (Annexure R-4/3), the Managing Director of the Bank/respondent No.1 sanctioned one post of Stenographer or PA to MD. So that the respondent No.6 can be promoted to the same. Thereafter, respondent No.6 applied to respondent No.3 through proper channel and his application was recommended by the competent authority on 01.07.2011 with indication the respondent No.6 Samaya Pal Steno both English and Hindi was working as PA to MD. Since three years and his work and conduct is excellent and the bank had no objection if he was appointed a PA in M.C. Rohtak on deputation basis.

Thereafter, the Board of Directors has considered and accepted the request of respondent No.6 for permanent transfer of his services in Municipal Corporation, Rohtak as per Govt.Rules subject to the approval of Respondent No.1 and after the respondent No.1 informed the Bank that BOD is competent for this issue and hence no approval is required. The petitioner has raised objection that the decision to sent the respondent No.6 on deputation has not been taken by the competent authority is baseless and without any reason. The Rule 13.01(IV) of Haryana State Central Cooperative Bank's Staff Service (Common Cadre) Rules, 1975 is reproduced below in this regard:

“The appointing authority may depute an employee of the Bank with his consent on deputation to any other Cooperative Institution or to any other Agency terms and conditions as agreed upon between the bank and the Foreign Institution.”

Further Rule 51 of Haryana State Central Cooperative Bank's Staff Service (Common Cadre) Rules, 1975 is also reproduced below:

“If any doubt arises at any time as to the interpretation of these rules or their application notwithstanding anything contained in these rules, the matter will be referred to the Registrar whose decision shall be final.”

Pursuant to the aforesaid rules, the Board of Directors of the Bank had passed a resolution 15 dated 23.03.2012. So, after that there is no doubt that the resolution No.15 dated 23.03.2012 passed by the BOD of the answering respondent was final and in accordance with rules and law and since then, the respondent No.6 has no lien with the Bank and now he is permanent employee of the respondent No.3.

So far as the maintainability of writ of quo warranto, a reference can be made to the order passed in ***CWP No.22276 of 2016 titled Suresh Hooda Vs.State of Haryana and others*** which was dismissed by the Co-ordinate Bench of this Court on 31.10.2014 by referring the Division Bench judgment in the case of ***Dinesh Bagga Versus state of Punjab and others 2012 (4) RCR (Civil) 112*** wherein, writ of quo warranto may be issued at the instance of any person whether fundamental or legal rights has been infringed or not. There is no difficulty in accepting the proposition laid down but the Bench there was considering the appointment to the post of a member to State Consumer Disputes Redressal Commission. It is a statutory body and the post is a public post which is amendable for a challenge for a quo-warranto. A teacher does not occupy a statutory post and that makes the difference. Thereafter an LPA has been filed against the said judgment was withdrawn by the appellant.

In the present case, petitioner is seeking a writ for challenging the permanent appointment and transfer of respondent No.6 to the office of

respondent No.3. Since, there is no doubt that the resolution No.15 dated 23.03.2012 passed by the Board of Directors of the Bank was final and in accordance with rules and law and since, the respondent No.6 has no lien with the Bank and now he is permanent employee of the respondent No.3, and since the post of Personal Assistant is not statutory post, the present writ is liable to be dismissed.

In view of the above, present writ petition is dismissed in terms of above discussion.

(RITU BAHRI)
JUDGE

05.02.2019

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Whether speaking/reasoned Yes/No

Whether reportable Yes/No