

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

(1) CWP-16841-2017 (O&M)

Satish Kumar

...Petitioner

Versus

The Indian Red Cross Society, Haryana and others

...Respondents

(2) COCP-1886-2018 (O&M)

Satish Kumar

...Petitioner

Versus

D.R. Sharma, General Secretary, Indian Red Cross Society, Haryana

...Respondent

(3) CWP-7739-2021 (O&M)

Satish Kumar

...Petitioner

Versus

The Indian Red Cross Society, Haryana and others

...Respondents

Reserved on : 25.11.2021

Date of decision: 01.12.2021

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Ms. Sangita Dhanda, Advocate for the petitioner.

Mr. Prateek Gupta, Advocate
for respondent-Red Cross Society.

Mr. Deepak Balyan, Addl. AG Haryana
for respondent No.3 in CWP-7739-2021.

H.S. MADAAN, J.

1. My this order shall dispose of aforementioned three petitions, since those arise out of same controversy.

2. Briefly stated facts of the case are that petitioner Satish Kumar son of Prem Kumar, working as an Accountant with District Red Cross Society, Rewari, Haryana had brought Writ Petition No.16841-2017 against respondents-Indian Red Cross Society, Haryana through its Honorary Secretary, President, Indian Red Cross Society, District Red Cross Branch, Rewari, Deputy Commissioner-cum-President, District Red Cross Branch, Mewat and Sh. Vazid Ali, presently working as Secretary, District Red Cross Branch, Rewari, craving for issuance of a writ in the nature of mandamus directing official respondents No.1 to 4 to put into practice order dated 24.12.2014 (Annexure P-7) passed by respondent No.3, vide which the petitioner has been promoted to the post of Secretary, District Red Cross Branch, Rewari subject to approval of President, Indian Red Cross Society, Haryana State Branch, however, the approval had not been given, which was without any legal justification, unreasonable and unwarranted; with a further direction to respondents No.1 to 4 to promote the petitioner to the post of Secretary, District Red Cross Branch, Rewari in the pay scale of Rs.9300-34800+G.P.5400 w.e.f. 24.12.2014 and for granting all the consequential benefits to the petitioner flowing from the promotional post of the Secretary.

3. According to the case set up by the petitioner, he had been working as an Accountant with District Red Cross Branch, Rewari and was promoted to the post of Secretary there, keeping in view his qualification and seniority, vide order dated 24.12.2014, copy Annexure P-7, passed by respondent No.3-Deputy Commissioner-cum-President,

District Red Cross Branch, Rewari subject to approval of the President, Indian Red Cross Society, Haryana State Branch, Chandigarh; the approval had not been granted and order promoting the petitioner had not been implemented, leaving the petitioner aggrieved, as such, he had approached this Court by way of filing the writ petition.

4. Notice of the writ petition was given to the respondents, who had put in appearance through counsel. During the course of proceedings, this Court had passed order on 31.07.2017 that post of Secretary at Mewat be not filled up pursuant to the advertisement issued till the next date of hearing.

5. The petitioner had filed a contempt petition under Sections 11 and 12 of the Contempt of Courts Act, 1971 against Sh. D.R. Sharma, General Secretary, Indian Red Cross Society, Haryana State Branch, Red Cross Bhawan, Sector-16, Chandigarh, contending that on 27.03.2018, an office order has been issued under signatures of respondent in the capacity of General Secretary, vide which Sh. Vazid Ali, who was posted as Secretary, Red Cross Branch, Rewari was transferred to District Red Cross Branch, Jhajjar and Sh. Mahesh Gupta who was posted as Secretary, District Red Cross Branch, Jhajjar has been sent to District Red Cross Branch, Rewari with additional charge of the post of Secretary, District Red Cross Branch, Nuh-Mewat for two days in a week thereby intentionally, deliberately and willfully disobeying the orders passed by this Court, as such, the respondent be summoned and dealt with in accordance with law.

6. The official respondents had filed a written reply to the writ petition, *inter alia* making preliminary submissions to the effect that petitioner is asking for giving effect to order dated 24.12.2014 but approval to the said order was never granted and as a matter of fact, the order has been revoked by subsequent orders; that vide letter dated 06.01.2015, it was noticed that the order passed with regard to promotion of petitioner was contrary to the procedure as well as in violation of orders of Governor, Haryana cum President, Indian Red Cross Society, Haryana State Branch, therefore, such order passed by Deputy Commissioner-cum-President, District Red Cross Branch, be withdrawn/cancelled; it was noted on the file by Governor, Haryana as to why the Deputy Commissioner had given the charge of Assistant Secretary to the petitioner without his prior approval; responding to the order/noting of the Governor, Deputy Commissioner-cum-President, District Red Cross Branch, Rewari informed that the appointment of the petitioner as Secretary, District Red Cross Branch, Rewari was only to facilitate smooth functioning in view of the transfer of Sh. Mahesh Gupta, the then Secretary at Rewari to Jhajjar and that charge of the petitioner on the post of Secretary, District Red Cross Branch, Rewari had been terminated, vide letter dated 04.02.2015; all these facts have intentionally been concealed by the petitioner, leading to order dated 31.07.2017 that post of Secretary, District Red Cross Branch, Mewat be not filled in terms of advertisement dated 01.07.2017; that service rules have been framed to streamline the selection and criteria to the posts of

Secretary and Assistant Secretary for District Red Cross Branches in the State of Haryana; this has been so done to rule out whimsical appointments and promotions to the posts; that respondent No.5 was transferred as Secretary, District Red Cross Branch, Rewari vide order dated 06.06.2017.

7. On merits, the material assertions in the petition were controverted, contending that in view of the meeting of Managing Body of Indian Red Cross Society, Haryana State Branch held on 23.10.2008, vide resolution No.16, posts of Secretary and Assistant Secretary have become State cadre posts which are transferable; the petitioner was not eligible for appointment to the post of Secretary and Assistant Secretary, District Red Cross Branch; that appointment of Sh. Mahesh Gupta as full time Secretary, District Red Cross Society, Jhajjar along with additional charge of the post of Secretary, District Red Cross Branch, Rewari was in consonance with rules and proper procedure prescribed; the petitioner working as Accountant was not even eligible for appointment to the post of Secretary at district level; in the end, such respondents prayed for dismissal of the writ petition; the contempt petition was also opposed on behalf of the official respondents.

8. It may be mentioned here that during the pendency of the first writ petition, the respondents had passed letter dated 25.01.2021 (Annexure P-19 in CWP-7739-2021) issued under signatures of Honorary Secretary, Indian Red Cross Society, Haryana State Branch, Chandigarh vide which the recommendations dated 24.12.2014 (Annexure P-7) by the

Deputy Commissioner-cum-President, District Red Cross Branch, Rewari had been declined; the petitioner had then filed CWP-7739-2021 seeking quashing of that letter; in addition to craving for issuance of writ in the nature of mandamus directing respondents No.1 to 3 to promote the petitioner to the post of Secretary, District Red Cross Branch, Rewari in the pay scale of Rs.9300-34800+G.P.5400 w.e.f. 24.12.2014 etc.

9. In the written reply filed on behalf of the official respondents, the letter in question defended as legal and valid, contending that on the basis of seniority and qualification, the case of the petitioner for promotion was duly considered by answering respondent in Executive Committee meeting held on 23.12.2014; the case of the petitioner was sent to office of respondent No.1 for approval by respondent No.3 but no approval had been given.

10. I have heard learned counsel for the parties besides going through the record.

11. Here, a perusal of the Constitution of the Indian Red Cross Society, Branch Rewari is necessary. As per para No.20, all appointments in the district branch shall be made by the President (Deputy Commissioner of the district) who has power to determine the terms of the employment and pay allowances of the staff of the district branch, however, the case would be laid before the managing body for confirmation. As per Clause ii of para No.20, notwithstanding anything contained in Rule 20(i), the appointment of the Secretary of the district branch shall be made by the President with approval of the State Branch

and shall not be annulled except with previous concurrence of the State Branch.

12. If the case is examined in the light of the Constitution of the Indian Red Cross Society, Branch Rewari, it comes out that the order passed by President of Red Cross Society Branch, Rewari, who was Deputy Commissioner of the district at the relevant time was not proper and appropriate, rather that smacks of favouritism and arbitrariness. Though the President has been given powers of appointment in the district branch but then he is expected to act in a fair and impartial manner, making selections on merit by adhering to the settled norms for selection, rather than acting in a whimsical manner, designating the petitioner, who was working as an Accountant as an officiating Secretary and then promoting him in an arbitrary manner. The Governor of Haryana had reservations to such order passed by the President/Deputy Commissioner of the district and he was asked to render necessary explanation as to how the petitioner could be made officiating Secretary without order/approval of the Governor. Even otherwise, the order passed by President of the district branch required approval of State branch, which admittedly was not given. The petitioner had filed the first writ petition No.16841-2017 praying that the concerned respondents be asked to get necessary approval. Unless the approval was given, the order could not be held to be final. The concerned respondent in its wisdom found the order passed by the President, District Red Cross Society, Branch Rewari to be wrong and illegal, did not give the approval and rather the order has

been recalled, which is being challenged in the other writ petition.

13. I do not find anything wrong with the letter dated 25.01.2021 whereby the recommendation/order dated 24.12.2014 passed by the President of the Rewari Branch of Indian Red Cross Society has been declined, rather that letter successfully passes the judicious scrutiny. An order passed by the President which was not found to be legal and valid was rightly not rectified by the State branch. Both the writ petitions lack merit and are dismissed accordingly.

14. As far as the contempt petition is concerned, I do not find that there was any intentional non-compliance or disobedience of the order passed in the writ petition by this Court. Thus, the contempt petition stands also dismissed.

01.12.2021

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(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No