

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

**CWP No. 10460 of 2017 (O&M)
Reserved on: November 18, 2022
Date of Decision: December 8, 2022**

Gurnek Singh

...Petitioner

Versus

Special Secretary Cooperation Punjab and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. H.S. Bedi, Advocate
for the petitioner.

Mr. Mohit Kapoor, Additional Advocate General, Punjab.

Mr. Vishal Sharma, Advocate,
for respondent No.3.

Mr. Iqbal Singh Saggu, Advocate,
for respondent No.4.

JAISHREE THAKUR, J.

1. The petitioner herein by way of instant writ petition seeks for issuance of a writ in the nature of Certiorari setting aside order dated 3.5.2017 (Annexure P-5) and order dated 8.5.2017 (Annexure P-6), vide which the petitioner was removed from services of the Jalandhar Central Cooperative Bank Ltd. w.e.f. 14.12.2015 under Rule 6 (v) of the Punjab State Cooperative Financing Institution Services Rules, 1958.

2. Brief facts leading to the present controversy are that initially the petitioner was appointed as a Clerk in the Nawanshahr Central Cooperative Bank Ltd. Nawanshahr on 4.3.1992. Thereafter, the petitioner was transferred to the Jalandhar Central Cooperative Bank Ltd. Jalandhar, where he joined on

22.4.1998. It is averred that at the time of appointment of the petitioner either with the Nawanshahr Central Cooperative Bank Ltd. or Jalandhar Central Cooperative Bank Ltd., none of his relative was member of the Board of Directors of the said Banks. The election to the Board of Directors of the Jalandhar Central Cooperative Bank Ltd. (hereinafter referred as '**the Bank**') held on 22.12.2010 and the wife of the petitioner was elected as Director of the said Bank. The election of the wife of the petitioner as a Director of the Bank was challenged by Shri Gurpartap Singh Wadala, the then MLA from Nakodar Constituency, but lost the same upto LPA Bench of this Court. It is alleged that when the said MLA failed to achieve the desired result, he got filed a complaint of sexual harassment from (three) women employees of the Bank against the Board of Directors as well as the petitioner. However, the Joint Registrar Cooperative Societies, Jalandhar, after hearing the parties, rejected the inquiry report and held that no action is required to be taken against any member of the Board of Directors of the Bank with regard to the complaint of sexual harassment filed by the three women employees of the Bank. Against the order of the Joint Registrar, Cooperative Societies, Jalandhar, respondent No. 4—Mandeep Kaur filed a revision petition before the Registrar Cooperative Societies, Punjab, which was marked to the Additional Registrar Admin, wherein a preliminary objection with regard to its maintainability was taken by the petitioner, but the same was rejected. Therefore, the Managing Director of the Bank as well as the petitioner challenged the same by way of filing a CWP No. 7900 of 2016 in this Court, in which notice of motion was issued and passing of final order had been stayed.

3. When all the efforts to dislodge the entire Board of Directors of

the Bank and to get the petitioner removed from service of the Bank failed, respondent No.4 got issued a notice dated 12.12.2015 (P-1) to the Deputy Registrar, Cooperative Societies, Jalandhar, stating that as per Rule 6 (v) of the Punjab State Cooperative Financing Institution Services Rules, 1958 (hereinafter referred to '**the Rules of 1958**'), the petitioner be informed of the fact that his relative is a Director on the Board of Directors of the Bank and on this information he will be deemed to have been removed from service, in terms of Rule 6 (v) of the Rules of 1958. On receipt of the said notice, the Deputy Registrar, Cooperative Societies (**DRCS**) directed the Assistant Registrar, Cooperative Societies, Jalandhar to take necessary action, vide letter dated 14.12.2015 (P-2). Thereafter, the legal notice so issued was disposed of by the Deputy Registrar, Cooperative Societies, Jalandhar vide order dated 23.2.2016 (P-3), holding that since the tenure of the Board of Directors of the Jalandhar Central Cooperative Bank Ltd. had come to an end on 21.12.2015 and thereafter, the Bank is being run by the Administrator, the question of relation of any employee with the office bearers of the Managing Committee of the Board does not arise at all.

Against the order dated 23.2.2016, respondent No.4 filed a revision under Section 69 of the Punjab Cooperative Societies Act, 1961, which was accepted by the Special Secretary, Cooperative, Punjab, Chandigarh, vide order dated 3.5.2017 (P5) and the Deputy Registrar, Cooperative Societies was directed to give effect to Rule 6 (v) of the Rules of 1958. Consequently, in compliance with the order dated 3.5.2017, the Deputy Registrar, Cooperative Societies, Jalandhar, passed the impugned order dated 8.5.2017 (P-6) removing the petitioner from the services of the Jalandhar

Central Cooperative Bank Ltd. Jalandhar from 14.12.2015, hence the instant writ petition.

4. Learned counsel appearing on behalf of the petitioner would argue that the impugned orders are absolutely without jurisdiction, against the principles of natural justice and as such the same are not sustainable in the eyes of law. It is submitted that the Special Secretary, Cooperation has gone beyond his jurisdiction, while passing the order Annexure P/5. Apart from directing removal of the petitioner from service, it has been directed to the Registrar Cooperative Societies, Punjab to treat the copy of the revision as representation and suitable action under the law as far as offence of sexual harassment is concerned, be taken into account. It is submitted that said direction was totally without jurisdiction, for the said aspect was not the subject matter of the dispute in the revision. In fact, the said issue is already under challenge in CWP No. 7900 of 2016, in which passing of final order has been stayed by this Court. The Special Secretary, Cooperation passed the order on 3.5.2017 and within a period of five days i.e. on 8.5.2017, the DRCS passed order Annexure P/6 removing the petitioner from service. Therefore, it is submitted that the order removing the petitioner from service has been passed in haste with a malafide intention and under the political pressure and as such the same deserves to be set aside.

5. Per contra, learned counsel appearing on behalf of respondents No. 1 to 3 would submit that the impugned orders have been passed by the respondents well within their jurisdiction. It is submitted that impugned order dated 8.5.2017 has been passed by respondent No. 2 in compliance with the order dated 3.2.2017 passed by respondent No.1, as quasi judicial authority

strictly in accordance with law and no fault could be found in the same.

6. Learned counsel appearing on behalf of respondent No. 4 would submit that Rule 5 of the Rules of 1958 provides for method of recruitment and before any person is appointed, he/she is required to give an affidavit to the effect that he/she is not related to any member of the Board of Directors of the Bank. Rule 6 of the Rules of 1958 says that no employee of the Bank shall at any time be related to any member of the Board of Directors. These rules have been framed to ensure that no candidate or employee is able to abuse the authority of members of the Board of Directors, who happens to be his relative, in any manner at the time of his appointment and during the service. Smt. Gurpreet Kaur wife and Shri Swaran Singh father of the petitioner were elected as Directors of the Bank on 22.12.2010 and therefore, in terms of Rule 6 (v), the petitioner was to be deemed to have been removed from service of the Bank. Rule 6 (v) is mandatory in nature and no legal right of the petitioner has been infringed in any manner hence no interference is called for.

None appears on behalf of respondent No. 5.

7. I have heard learned counsel for the parties and have gone through the record of the case.

8. The entire controversy in the instant case revolves around Rule 6 (v) of the Punjab State Cooperative Financing Institutions Service Rules, 1958, which is re-produced as under:-

“6. Appointment to the service:

i) to (iv) xx xx xx

v) No employee of the Bank shall at any time be related to any member of the Board of Directors. If he happens to be so related, as defined in SO 7.17 viz (a) any one related to the person concerned, or to his wife through a common ancestor who is not

more remote than a great grandfather, and (b) anyone married to a person falling under (a) then the employee shall be deemed to have been removed from service from the same date on which this fact after having been brought to the notice of any officer of the Bank/Registrar, is brought by the latter, to the notice of such an employee.

If however, there is any dispute as to whether or not such a relationship exists the decision of the Registrar shall be final”.

Insofar as Rule 6 (v) of the Rules of 1958 is concerned, there is no dispute that no employee of the Bank shall *at any time* be related to any member of the Board of Directors and if he or she happens to be so related, then the said employee shall be deemed to have been removed from service from the same date on which this fact after having been brought to the notice of any officer of the bank/Registrar is brought to the notice of such employee. However, in the instant case, from the sequence of events narrated above, it is apparent that initially the petitioner was appointed as a Clerk in the Nawanshahr Central Cooperative Bank Ltd. Nawanshahr on 4.3.1992 and thereafter he was transferred to the Jalandhar Central Cooperative Bank Ltd. Jalandhar on 22.4.1998. It is not disputed that none of the petitioner's relative were members of the Board of Directors of either of the aforesaid Banks on the date when he was initially appointed on 4.3.1992 or when he was transferred on 22.4.1998. On 22.12.2010, the petitioner's wife came to be elected as the Director of the Jalandhar Central Cooperative Bank for a fixed period of five years. By that time, the petitioner had already served the Bank for 18 years and 9 months. The tenure of the Board of Director, in which wife of the petitioner was a member, came to end on 21.12.2015. During the period from 22.12.2010, when the petitioner's wife was elected as member of the Board of Director till

21.12.2015, when her tenure as of member came to an end, there no complaint was raised with regard to the status of the petitioner being an employee of the Bank. It is only on 12.12.2015, respondent No. 5, through her advocate served a legal notice upon the Deputy Registrar, Cooperative Societies, bringing the factum of the petitioner's father and wife being Directors of the Bank. This notice was disposed of by the Deputy Registrar, Cooperative Societies, Jalandhar on 23.2.2016, by passing the following order:-

“This order relates to the disposal of the notice dated 12.12.2015, received in the office of the noticee on 14.12.2015, of Mr. Kanwaljit Singh Kang Advocate. Through this notice the noticee has been asked to inform Shri Gurnek Singh of the factum of his father and wife being Directors of Bank today and that he would be deemed to have been removed from service from the date of receipt of the information and inform his client.

As soon as the above mentioned letter was received in the office of the noticee on 14.12.2015, the concerned Assistant Registrar, Cooperative Societies, Jalandhar-1 was asked the same day to send the required reply to the concerned Advocate within two days and the required action, if any, by the competent authority be also ensured. Copy of this letter was endorsed to the counsel Mr. Kanwaljit Singh Kang as well. When the needful was not done, reminder was issued to the Assistant Registrar, Cooperative Societies, Jalandhar-1 by the notice on 24.12.2015. Pursuant to these letters the Assistant Registrar, Cooperative Societies, Jalandhar-1 sent the required reply vide despatch No. 3 dated 01.01.2016 to the notice to Mr. Kanwaljit Singh Advocate on 05.01.2016 through registered post. Thus the said notice dated 12.12.2015 already stands replied duly and also duly conveyed to the concerned Advocate Mr. Kanwaljit Singh Kang.

Moreover, it is pertinent to mention here that the tenure of Board of Directors of the Jalandhar Central Cooperative Bank Ltd. has

come to an end on 21.12.2015 and thereafter the Bank is being run by the Administrator. Thus question of relation of any employee with the office bearers of the Managing committee of the Board does not arise at all.”

As already noticed, aggrieved against the above re-produced order, respondent No.5 filed a revision under Section 69 of the Punjab Cooperative Societies Act, 1961, which was allowed on 3.5.2017 and as a consequence of that order, the petitioner stood removed from service by the impugned order dated 8.5.2017 in terms of Rule 6 (v) of the Rules of 1958.

9. Undisputedly, the petitioner was appointed as Clerk in the Bank on 4.3.1992 and he remained in service till 8.5.2017, when the impugned order removing him from service was passed. The Special Secretary, Cooperation, Punjab, while passing the impugned order dated 3.5.2017 has only relied on Rule 6 (v) of the Rules of 1958. However, he failed to take into consideration the fact that from the date i.e. 4.3.1992, when the petitioner was initially appointed till 21.12.2015, when the tenure of the wife and father of the petitioner as members of the Board of Directors came to an end, the petitioner had already put in service of 23 years and 9 months and during the said period (particularly from 22.12.2010, when the wife and father of the petitioner were elected as members of the Board of Director of the Bank till 21.12.2015), no complaint with regard to the status of the petitioner was made. The legal notice was issued by respondent no 5 and received in office of the Assistant Registrar, Cooperative Societies, Jalandhar-1 on 14.12.2015. In terms of the Clause 6 the petitioner would have been removed from service on the same day as information was received that the employee had relatives as members of the board, but this removal would have come into effect only after due intimation

to the petitioner. This was never done and in the meantime the term of the Board of Members expired and an Administrator appointed. Without issuing notice to the petitioner about his family members being members of the Board of Director, the orders terminating the services of the petitioner are not sustainable. Moreover such orders were to be passed during the subsistence of that period when family members were on the Board of Directors. The order dated 3.5.2017 passed by the Special Secretary, Cooperation Punjab is also not maintainable as he has gone beyond his jurisdiction, while ordering that copy of the revision be treated as a representation and take suitable action as required under the law as far as the issue of offence of sexual harassment was concerned. The issue of sexual harassment was not at all subject matter of the revision and such directions were unwarranted. The said issue, as noticed above, was already under challenge in CWP No. 7900 of 2016, in which passing of final order had been stayed by this Court.

10. For the reasons afore-stated, the writ petition is allowed. The impugned orders dated 3.5.2017 (P-5) and 8.5.2017 (P-6), vide which the petitioner was removed from service, are set aside. The official respondents are directed to take the petitioner back in service and grant him all the consequential financial benefits, as admissible under the rules within a period of one month from the date of receipt of a copy of this order.

December 8, 2022
prem

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned : Yes
Whether Reportable : No