

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

CWP-17651-2019

Date of decision: 07.03.2022

Bhupinder Singh

.....Petitioner

versus

District Red Cross Society, SBS
Nagar and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE FATEH DEEP SINGH

Present: Mr. K.L. Arora, Advocate
for the petitioner.

Mr. Mukul Aggarwal, Advocate
for the respondents.

FATEH DEEP SINGH, J.

The main crux in the present civil writ petition by virtue of Articles 226/227 of the Constitution of India filed by petitioner-Bhupinder Singh against the District Red Cross Society and others, the respondents is as follows:-

Admittedly, the petitioner joined the District Red Cross Society, Jalandhar on the strength of the order dated 14.09.1982 (Annexure P-1) where he joined on 21.09.1982. Upon carving out of District of Nawanshahr (also named Shaheed Bhagat Singh

(SBS) Nagar) from Jalandhar, the petitioner was shifted to District Red Cross Society, Nawanshahr as a Salesman and, thereafter, rose to the post of Supervisor in the year 2013. The petitioner showed his willingness to opt for premature retirement from March, 2018 from the District Red Cross Society (in short 'DRCS'). The primary grouse of the petitioner is that being an employee of the respondents, it was held that he is not entitled to any pension and, therefore, is only entitled 10% of the salary which has been deducted as Employees Provident Fund (EPF) in which equal contribution is made by the DRCS and thus, claimed that he has not been paid appropriate amount of Leave Encashment of 300 days, CPF and alleged that the office order (Annexure P-12) passed by the respondents whereby, he has been denied total amount of CPF, Leave Encashment and Gratuity was illegal, capricious and, therefore, needs to be set aside and he was entitled to all these benefits including interest thereon to which he has been denied throughout. The precise stand of the respondents in their response to the petition though accepts the engagement of the petitioner in the District Red Cross Society and claimed that on the strength of the order dated 10.05.2019 (Annexure P-12), the petitioner was found entitle to CPF amounting to Rs.10,79,983/-,

salary of Rs.1,47,633/- and additional CPF amounting to Rs.40,608/- which was released to him and thus, claimed that the petitioner was not entitled to any dues as claimed by him and denied that any entitlement to Gratuity or Leave Encashment was admissible under the Indian Red Cross Society Branch Rules, 2015. It is reiterated that the provisions of the Payment of Gratuity Act, 1972 were not application to the case of the answering respondents as District Red Cross Society under which the petitioner was engaged in SBS Nagar at no point of time the number of employees were 10 or more and, therefore, the Gratuity Act was no applicable and sought dismissal of the petition.

Heard counsel for the parties and perused the records.

The claim of the strength of the employees of the District Red Cross Society, SBS Nagar so laid by the respondents shows that there were only 07 persons working therein and the plea of the petitioner that there were employees in the Special School, Nawanshahr, Red Cross Medical Store, Civil Hospital, Nawanshahr, Banga and Balachaur, Deen Dayal Rehabilitation Centre were not in the District Red Cross Society, Nawanshahr and were only of philanthropic nature in which the answering respondents had been helping to tide over the deficiency in the

social upliftment in the area and thus, none of these employees were covered under the District Red Cross Society. It is reiterated that each District Red Cross Society is a distinct and separate identity governed under the Indian Red Cross Society District Branches, Punjab State Rules framed for each Society of every District and wherein, it provides that Gratuity would only be given if there is entitlement under the Gratuity Act, 1972 and which ensures that the same would be applicable only if there are 10 or more employees at a given point of time and which the counsel for the petitioner could not enlist in his submissions by any concrete and substantial documentary proof. This Court in a Division Bench judgment titled as 'Om Parkash Sharma versus Indian Red Cross Society and another' 2005 (4) S.C.T 37 in a similar proposition of law, has held that such District Red Cross Society is a Society under the Societies Registration Act and has its own Rules for Management, function, control and procedure of the Society and, therefore, Rules/bye-laws applicable to District Red Cross Society at Jalandhar may not be made applicable to District Red Cross Society at SBS Nagar unless and until the same has been adopted by a due process of law by the concerned Society and similar is the view of Single Bench of this Court in a judgment

titled as 'Sukhwant Kaur versus District Red Cross Society, Moga and another' 2016 (1) PLR 381 where the Court had gone to the extent that District Red Cross Society and Indian Red Cross Society are two distinct and separate entities and employees of District Red Cross Society cannot be deemed to be employees of the Indian Red Cross Society and, therefore, at the district level organization, each employee has its own terms and conditions of appointment. The ratios cited on behalf of the petitioner in judgments titled as 'Bal Chand and others versus Punjab Water Resources Management and Development Corporation Limited and others' 2021 (1) S.C.T. 624; 'Anoop Singh versus State of Haryana and others' 2020 (1) S.C.T. 89; 'Sanjeev versus State of Punjab and others' CWP No.13501 of 2016 and 'Sukhwant Kaur versus District Red Cross Society, Moga and another' CWP No.23590 of 2014 do not carry the day for them.

In view of the factual disparity, this Court in its view has held that District Red Cross Society of each District can determine the kind of number of employees needs to employee to carry out the purpose of Society and cannot be equated with others who are independent and distinct organizations and, therefore, an employee of a particular Society cannot seek parity

with those of other employees and the analogy that is sought to be drawn by Mr. K.L. Arora, Advocate by referring to other District Red Cross Societies, does not usher any advancement in the case of the petitioner who is supposed to be governed by its own service rules for that particular Society. The petitioner is only entitled to service benefits to which he is entitled under the bye-laws of the Society of Nawanshahr and to which he has been paid and the present invocation is nothing but misuse of the process of Court and finding no merits the same stands dismissed.

07.03.2022*Neha***(FATEH DEEP SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No