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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-11605-2020
DECIDED ON: 14.12.2023

THE SHANTI NAGAR PRIMARY AGRICULTURE COOPERATIVE
SOCIETY LTD.

.....PETITIONER

VERSUS

STATE OF HARYANA & OTHERS

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Ishnoor Singh, Advocate for Mr. Vikram Singh, Advocate
for the petitioner.

Mr. Gaurav Jindal, Addl. AG, Haryana.

Mr. Sachin Gupta, Advocate, for respondents No.3 and 4.

SANDEEP MOUDGIL, J

1. The jurisdiction of this Court under Articles 226 and 227 of the Constitution of India has been invoked seeking a writ in the nature of *Certiorari* for setting aside the order dated 01.07.2020 (Annexure P-13) as well as order dated 21.09.2018 (Annexure P-8) vide which the order dated 13.10.2017 (Annexure P-3) and the resolution dated 13.10.2017 (Annexure P-2) passed by the petitioner-Society have been set aside.

2. Brief facts of the case are that the order dated 13.10.2017 as well as resolution dated 13.10.2017 were challenged by the private respondents before respondent No.2, which were set aside vide order dated 21.09.2018. Thereafter, the petitioner has challenged the order dated 21.09.2018 before respondent No.1 by filing revision petition but the same was dismissed vide order dated 01.07.2020, while holding that there was a clerical mistake regarding date of joining.

3. It has been contended by learned counsel for the petitioner-Society that it has been wrongly held that there was no agenda for 13.10.2017 with regard to the relieving of private respondents. Firstly agenda dated 19.08.2017 was issued for 04.09.2017 for the appointment of private respondents and they were appointed on the same day. As such, they have joined their duties on 05.09.2017, as is evident of Annexures P-6 and P-7 respectively. It is asserted that respondent-authority has failed to appreciate the attendance register wherein, the attendance of private respondents has been shown to be 04.09.2017. Thus, the appointment has been made totally in violation of service rules and guidelines issued by the department. It is further asserted that no appointment letter was issued to the private respondents.

4. Learned counsel for respondents No.1 and 2 has submitted that the orders dated 21.09.2018 and 01.07.2020 (Annexures P-8 and P-13 respectively) have been passed in quasi judicial capacity under Sections 114 & 115 of the Haryana Cooperative Societies Act, 1984 by respondent No.2-Registrar, Cooperative Societies in its appellate jurisdiction. Hence, no legal right of the petitioner has been infringed by respondents No.1 and 2.

5. Learned counsel for respondents No.3 and 4 has submitted that the petitioner has concealed the material facts by twisting the true facts with a view to project shabby picture of the respondents. In fact, the respondents No.3 and 4 applied for the post and being eligible they have been appointed as Clerk and Peon respectively on 04.09.2017. Accordingly appointment letters were issued on 04.09.2017 and they have joined the duties on 05.09.2017.

6. No other argument has been raised by either of the parties.

7. Heard counsel for the respective parties.

8. From the record, it is clear that the General Body appointed the respondents No.3 and 4 being fully eligible and qualified and have been appointed after getting approval of Deputy Registrar. The present petition has been filed through Sarvan Singh, who was present on 04.09.2017 and agreed to appoint respondents No.3 and 4. It is evident from the order dated 21.09.2018 (Annexure P-8) that after perusing the documents on record it is crystal clear that after appointment, the joining reports of respondents No.3 and 4 were duly received in the Society on 05.09.2017 and their salary was also released on 05.09.2017, which is sufficient for this Court to infer that respondents No.3 and 4 have joined their duties on 05.09.2017. Thus, the ground regarding putting the attendance on 04.09.2017 at 9.00 AM is not sustainable in the eyes of law.

9. It is crystal clear from the record available that there was a clerical mistake with regard to the date of joining of respondents No.3 and 4. Moreover, it is settled law that contractual employment cannot be replaced by a contractual employment and the contractual employees should continue till the regular appointment, as has been held by the Apex Court in the case of **Hargurpartap Singh vs. State of Punjab; 2007 (13) SCC 292.**

10. In view of the discussions made hereinabove, this Court does not find any infirmity or impropriety in the orders dated 01.07.2020 and 21.09.2018 (Annexures P-8 and P-13 respectively) and the same are upheld.

11. The present petition is dismissed being devoid of any merits.

(SANDEEP MOUDGIL)
JUDGE

14.12. 2023

Sham

Whether speaking/reasoned Yes/No
Whether reportable Yes/No