

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.19026 of 2016 (O&M)

Date of Decision.12.01.2023

Om Singh

...Petitioner

Vs

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Bharat Bhushan Sharma, Advocate
for the petitioner.

Mr. Anant Kataria, DAG, Haryana.

Mr. J.S. Dahiya, Advocate
for respondent No.6.

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JAISHREE THAKUR J. (ORAL)

The instant writ petition has been filed for issuance of a writ in the nature of mandamus, directing the respondents to allow the petitioner to join service in the office of respondent No.6 in compliance of orders passed by respondents No.1 and 2, which stood upheld upto this Court, along with arrears and interest @18% per annum.

As per pleadings, petitioner was an employee of respondent No.6-Society, who was charge-sheeted vide order dated 09.05.2012 with charges of embezzlement of Rs.3000/- in October 2005 and misappropriation of funds of Rs.3900/-. On 25.05.2012, petitioner replied to the aforesaid charge-sheet, however, on 22.06.2012, he was served with a show cause notice, which was also replied to by the petitioner. Thereafter, respondent No.6-Society had appointed enquiry officer to conduct enquiry, who submitted his report exonerating the petitioner from all charges. However, another enquiry officer i.e. Inspector, Cooperative Societies, Assandh-II was appointed by respondent No.6-Society, who also exonerated

the petitioner in his enquiry report. Despite two enquiry reports having been given in favour of the petitioner, respondent No.6-Society in its meeting held on 17.09.2012 passed a resolution to terminate the services of the petitioner, which was conveyed to the petitioner on 20.09.2012. Against the said resolution, petitioner had filed a statutory appeal under Section 19 and 20 of the Primary Cooperative Credit and Services Staff Service Rules, 1992 before the Registrar, Cooperative Societies, Haryana, which was allowed vide order dated 13.12.2012 and a direction was given to respondent No.6-Society to reinstate services of the petitioner with all consequential benefits. Against order dated 13.12.2012, a revision petition was preferred by the respondent No.6-Society before the Principal Secretary to Government of Haryana, Cooperation Department, Haryana, which stood dismissed vide order dated 04.08.2014. The aforesaid orders were further challenged in CWP No.18780 of 2014 before this Court but the same met with the fate of dismissal vide judgment dated 13.10.2014 passed by this Court. Despite the direction given by the Registrar, Cooperative Societies, Haryana vide order dated 13.12.2012 to reinstate the petitioner with all consequential benefits, no action was taken thereon by the respondent No.6-Society, which direction stood upheld up till this Court. Petitioner also made various representations to respondents No.3 to 6 but the petitioner was not taken back in service, despite directions given by respondents No.3 and 4 for implementing the orders passed in favour of the petitioner. The petitioner is out of service since 20.09.2012 and thus, aggrieved by the action of the respondent No.6-Society, approached this Court by way of instant writ petition.

Learned counsel appearing for the petitioner would contend that even despite orders being passed in favour of petitioner whereby he had

been directed to be reinstated in service, he is still out of service. The petitioner also served a legal notice dated 04.04.2016, in response to which it was stated that Managing Committee of the Society had been removed and Board of Administration had been appointed and therefore, orders passed in favour of the petitioner cannot be implemented. It is further contended that now a fresh Managing Committee has been constituted and therefore, there is no hurdle in implementing the said orders.

Learned counsel appearing for the respondent-State would submit that numerous letters have been issued to respondent No.6-Society to implement the orders passed in favour of the petitioner, however, the same has not been done by the respondent No.6-Society for the reasons best known to it.

Learned counsel appearing for respondent No.6-Society would submit that charges against the petitioner were of committing embezzlement and therefore, liberty was granted to the respondent No.6-Society to take appropriate action against the petitioner, if found necessary after following due procedure and principles of natural justice. The respondent No.6-Society was going to take necessary action against the petitioner, however, the Managing Committee was removed and the Board of Administration was appointed. Moreover, there are other complaints filed against the petitioner in which after enquiry, direction has been issued to take action against the petitioner as per Rules. It is in these circumstances, petitioner is not entitled to be reinstated in service.

I have heard learned counsel for the parties and have perused the paper book. It is an admitted fact that the petitioner has been ordered to be reinstated in service vide order dated 13.12.2012 passed by the Registrar,

Cooperative Societies, Haryana, which has been upheld up till this Court. The respondent No.6-Society was bound to comply with the direction of reinstating the petitioner in service as the writ petition filed by the respondent No.6-Society against the orders passed by respondents No.1 and 2 stood dismissed, though liberty was granted to the respondent No.6-Society to take action against the petitioner after following the due procedure and principles of natural justice. No further proceedings were initiated against the petitioner. As of today, Managing Committee of the respondent No.6-Society is functional and therefore, there is no hurdle in implementing order dated 13.12.2012 passed by respondent No.2, which holds field till date.

In view of the aforesaid facts and circumstances, this Court finds merit in the prayer made by the petitioner. Consequently, the instant petition is allowed and respondent No.6-Society is directed to comply with the direction given vide order dated 13.12.2012 passed by respondent No.2 and reinstate the petitioner in service with all consequential benefits within a period of two weeks from the date of receipt of certified copy of this order. Arrears of pay and allowances of the petitioner shall be calculated from the date of termination of the petitioner till the date of his reinstatement in service and released to him within a period of four weeks thereafter with interest @7% per annum, failing which the respondent No.6-Society will be liable to make payment @12% per annum.

(JAISHREE THAKUR)
JUDGE

January 12, 2023

Pankaj*

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No