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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-16237-1995 (O&M)
Date of Decision: 19.04.2024

Dharam Pal

..... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Rakesh Nagpal, Advocate,
for the petitioner.

Mr. Gaurav Jindal, Addl. A.G., Haryana.

Mr. Amit Jaiswal, Advocate,
for respondent No.2.

JASGURPREET SINGH PURI, J. (ORAL)

CM-6388-CWP-2024

For the reasons mentioned in the application, the same is allowed and the correct copy of Annexure R-2/1 (Annexure R-2/1A), certified copy of the petition filed by the petitioner before the Registrar Cooperative Society, Haryana (Annexure R-2/5) as well as the certified copy of judgment passed by this Court in CWP-5923-1991 (Annexure R-2/6) are taken on record, subject to all just exceptions.

CWP-16237-1995

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of writ in the nature of *mandamus* directing respondent No.2 to treat and consider the petitioner on the cadre of

service as its employees of CONFED.

2. Learned counsel for the petitioner submitted that this is the third round of litigation filed by the petitioner and the prayer in the present petition is for grant of salary for the period he has worked in respondent No.3-Guhla Central Cooperative Consumer Stores Limited, Guhla Cheeka. He further submitted that the prayer of the petitioner is only to the extent that at least for the time he has worked in the aforesaid Store that he should be paid the salary.

3. However, on the other hand, Mr. Amit Jaiswal, learned counsel for respondent No.2 submitted that a detailed order has been passed by the learned Registrar, Cooperative Societies (RCS) in pursuance of the directions issued by this Court vide Annexure P-29 and while referring to the aforesaid order, he submitted that it is a case where the petitioner was earlier working with respondent No.2-Haryana State Federation of Consumers Cooperative Wholesale Stores Limited (CONFED). The petitioner was appointed as Salesman on 22.03.1980 in the aforesaid CONFED and thereafter, he was posted at Ambala Cantt. but later on he was transferred to Guhla Central Cooperative Consumer Stores Limited (Respondent No.3) vide order dated 11.07.1983. He submitted that thereafter an Amendment of the Staff Service Rules of CONFED was made on 14.12.1983 vide Annexure R-2/1A with the approval of the Registrar, Cooperative Societies. He further submitted that in view of the amendment in the Service Rules, it was so provided that certain employees including that of the present petitioner working in the store of the grade of enforcement of the amended rules, will be allocated to the stores where they were already

working and in case any employee was aggrieved by the said allocation, he could make an appeal to the Staff Committee of the CONFED within six months from the date of the enforcement. But so far as the present petitioner is concerned, he did not file any appeal regarding the allocation because at that point of time since the store was working, it suited him and he willingly continued to work in respondent No.3-Store and did not opt for coming back to the CONFED and thereafter, the Store went into losses and further into liquidation and a Liquidator was appointed. He also submitted that now the store is already wound up and there are no assets or any income or any amount with the Store and therefore, even if any direction is issued to the respondent No.3 of which the petitioner was an employee, no useful purpose will be served because they do not have any money to pay. He further submitted that all these aspects were considered by the learned Registrar, Cooperative Societies while passing the impugned order (Annexure P-29) and also in the revisional order passed by the learned Financial Commissioner & Principal Secretary to Government of Haryana, Cooperation Department, Chandigarh vide Annexure P-30.

4. Learned counsel for the petitioner at this stage submitted that in similar case of two persons, who had also approached this Court by filing a writ petition, the petition was disposed of vide Annexure P-31 wherein it was directed that the Liquidator will determine from the assets of the Society whether claims of the petitioners for salary/wages can be made out or not. He submitted that similar direction can be issued in the present case as well.

5. I have heard the learned counsel for the parties.

6. The present is a case where as per the learned counsel for the

petitioner, the petitioner was an employee of respondent No.2-CONFED, who was the Principal employer and not of respondent No.3-Guhla Central Cooperative Consumer Stores Limited, Guhla Cheeka. However, a perusal of the order passed by the learned Registrar, Cooperative Societies vide Annexure P-29, would show that the petitioner was working in respondent No.3-Store and thereafter, an Amendment was carried out vide Annexure R-2/1A and rather by way of Proviso Nos.2 & 3, an option was given to the employees to opt for CONFED or the Store, to which the petitioner did not opt for CONFED and he continued to be an employee of the Store. However, later on the Store went into the losses and ultimately, it was wound up. This Court is of the considered view that the impugned order dated 10.08.2006 which has been passed by learned Registrar, Cooperative Societies (Annexure P-29) is a well reasoned order and no fault can be found in the aforesaid order. It is true that in case the petitioner has worked for some time in the Store and for that time he may be entitled for the salary but the question which would arise in the present case is whether in case any such direction is issued to the respondent No.3 then whether it can be implemented or not. It is so clear from the orders passed by the learned Registrar Cooperative Societies and also submissions made by learned counsel for respondent No.2 that the aforesaid respondent No.3-Store of which the petitioner was an employee is not in existence and it has been wound up totally. Therefore, it will not be appropriate for this Court to interfere under Article 226 of the Constitution of India by passing an order which cannot be implemented at all.

7. So far as the prayer of the learned counsel for the petitioner that

an order similar to that of Annexure P-31 can be passed wherein a Division Bench of this Court had directed the Liquidator to determine the case of the petitioners is concerned, the same is also not sustainable in view of the fact that the aforesaid order has been passed in the year 2002, which is almost 22 years ago and the order which has been passed by the learned Registrar Cooperative Societies giving the factual position which is of the year 2006. Therefore, the petitioner cannot claim parity on the basis of the aforesaid orders passed by a Division Bench of this Court.

8. Consequently, finding no merit in the present petition, the same is hereby dismissed.

19.04.2024 (JASGURPREET SINGH PURI)
Bhumika JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |